

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**KATY RIORDAN**  
Claimant

**APPEAL NO: 13A-UI-05375-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING  
SEDONA STAFFING**  
Employer

**OC: 04/07/13**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment  
Iowa Code § 96.3-7 - Overpayment

**STATEMENT OF THE CASE:**

Sedona Staffing (employer) appealed an unemployment insurance decision dated May 3, 2013, reference 01, which held that Katy Riordan (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 11, 2013. The claimant participated in the hearing. The employer participated through Maria Mays and Trisha Manthei.

**ISSUE:**

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of her assignment, when and if notified of this requirement at the time of hire.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment agency and the claimant was hired on March 14, 2011. At the time of hire, she signed an availability statement which advised her of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit. The claimant was given a copy of the availability statement, which is not part of the application or contract of employment. The employer had the claimant sign an additional availability statement on July 10, 2012 and she received a copy of it.

The claimant's last assignment ended on March 13, 2013. She did not check in with the employer for additional work until March 22, 2013. The claimant was considered to have voluntarily quit effective March 18, 2013.

The claimant filed a claim for unemployment insurance benefits effective April 7, 2013 and has received benefits after the separation from employment.

## **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code §96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and the employer did so in this case. The employer must also notify the individual that he may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j. The claimant was given a copy of the availability statement which advised her that failure to contact the employer after the end of an assignment could result in a loss of unemployment benefits.

The claimant knew or should have known she was required to contact the employer after the completion of her assignment so the employer knew whether she was available for additional assignments. She did not contact the employer after the end of her assignment on March 13, 2013. The claimant did not satisfy the requirements of Iowa Code § 96.5-1-j and is disqualified from receiving unemployment insurance benefits as of the week ending April 13, 2013.

Iowa Code § 96.3(7) provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code § 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in the initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

**DECISION:**

The unemployment insurance decision dated May 3, 2013, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs