

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM B TROUTMAN
Claimant

APPEAL NO. 06A-UI-09789-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY
Employer

**OC: 08-13-06 R: 01
Claimant: Respondent (2)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 21, 2006, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held by a telephone conference call from Des Moines, Iowa on October 18, 2006. The claimant participated. The employer participated through witnesses Shelly Spevak and John Havegger.

ISSUE:

Did the claimant voluntarily quit employment for reasons qualifying him to receive unemployment insurance benefits or did the employer discharge the claimant for work-related misconduct?

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Mr. Troutman was employed by the captioned temporary employment service most recently on August 10, 2006 when he was assigned to work as a production worker at Point to Point Trucking Company. The claimant was paid by the hour and completed his work assignment on August 10, 2006. Mr. Troutman did not re-contact Labor Ready Midwest, Inc. until September 6, 2006 for further assignments.

Temporary workers are informed at the time that they accept employment that they are required to re-contact the company upon completing each assignment. The office in Council Bluffs, Iowa allows workers up to three days to make re-contact. Workers are expected to personally report to the facility and sign in on the log sheet to make themselves available for work and to satisfy the re-contact requirements. Employees are informed that failure to re-contact the temporary employment service after completing an assignment can affect their unemployment insurance benefits and would be considered to be a voluntary quit by the employer. Mr. Troutman received the notification about the necessity to contact the employer but did not do so for an extended period.

Since April 2006, the Council Bluffs facility has required an in-person sign in on a log sheet at the employer's facility. The facility does not accept telephone contacts. Mr. Troutman and other workers were made aware of the requirement.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.5-1-j provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department, But the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

In this case the evidence established that Mr. Troutman did not re-contact this temporary employment service as required for an extended period of time following his most recent assignment that ended on August 10, 2006. The claimant agreed at the time of hire to re-contact the employer within three working days after the completion of each work assignment. Mr. Troutman was aware that he was required to personally visit the Labor Ready Midwest facility and to sign a log sheet located at that facility to comply with the employer's re-contact requirements. Although aware of the requirements, Mr. Troutman did not re-contact this temporary employment service after completing his assignment on August 10, 2006 until September 6, 2006 when he was re-assigned.

Having reviewed all of the evidence in the record, the administrative law judge finds that the claimant was a temporary employee of a temporary employment firm and was notified by the temporary employment firm that at the completion of a temporary assignment he would be required to re-contact the temporary employment firm within three working days. The evidence establishes that Mr. Troutman was aware that he was required to personally visit the facility and sign in on a contact log in order to meet the re-contact requirement. The claimant was specifically informed that failure to meet the re-contact requirement would be considered to be a voluntary leaving of employment

and could affect his unemployment insurance benefits. The notification was presented in writing on a separate and distinct sheet of paper and the claimant signed and acknowledged he had received the information and understood it. The notification was clear and concise and was separate from any other contract of employment.

Based upon the law as it is written, the administrative law judge must conclude that Mr. Troutman voluntarily left his employment by failing to contact the temporary employment service at the completion of his most recent temporary assignment within three days as required and agreed. As the claimant has not established good cause for leaving this employment, the administrative law judge must rule that the claimant left employment for reasons that are disqualifying under the provisions of the Iowa Employment Security Law.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$2,908.00 pursuant to Iowa Code section 96.3-7, as the decision allowing benefits has been reversed.

DECISION:

The agency representative's September 21, 2006, reference 01, decision is reversed. The claimant voluntarily left employment under disqualifying conditions and is not qualified to receive unemployment insurance benefits until he has worked in and has been paid wages for insured work equaling ten times the weekly benefit allowance, provided that he meets all other eligibility requirements of the law. The claimant has been overpaid unemployment insurance benefits in the amount of \$2,908.00

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/kjw