

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LOUISE C GALES
Claimant

APPEAL NO. 07A-UI-07541-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE STAFFING SERVICES INC
Employer

**OC: 06-03-07 R: 04
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Leaving
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 25, 2007, reference 04, decision that allowed benefits. After due notice was issued, a hearing was held on September 5, 2007. The claimant did participate along with her witness, Erica Smith, her mother. The employer did participate through Stacy Sheldon, Office Manager.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was last assigned to work at Von Hoffman on a tabbing project beginning on October 23, 2006. The claimant was a no-call/no-show on October 24, 2007 at Von Hoffman. On October 25, the claimant called Riverside Staffing Services Inc. and told them she was sick on October 24. The claimant spoke to Stacy Sheldon on October 25 who told her that she could return that night and to work at Von Hoffman. The claimant told Ms. Sheldon that she would return to work that night at Von Hoffman. When the employer received the payroll report from Von Hoffman on October 30 they learned that the claimant had not shown up for work on October 25 as she indicated she would. The claimant did not contact Riverside Staffing again until sometime in November or December.

Claimant has received unemployment benefits since filing a claim with an effective date of June 3, 2007.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 96.5-1 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant stopped reporting to work on October 25 and did not contact the employer again until November or December. Her failure to report to work or to contact the employer is evidencing her intent to abandon her job. The claimant has not established any good cause reason attributable to the employer for her quitting. Thus, it is determined that the claimant voluntarily quit without good cause attributable to the employer. Additionally, the claimant began working for another employer after voluntarily quitting Riverside Staffing. She has not yet requalified for benefits by earning ten times her weekly benefits amount.

Iowa Code § 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.

Because claimant's separation was disqualifying, benefits were paid to which claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The July 25, 2007, reference 04, decision is reversed. Claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit

amount, provided she is otherwise eligible. Claimant is overpaid benefits in the amount of \$715.00.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css