

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE O MARTINEZ
Claimant

APPEAL NO. 08A-UI-05848-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**"R J PERSONNEL INC
"TEMP ASSOCIATES**
Employer

**OC: 05/25/08 R: 04
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated June 23, 2008, reference 02, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 10, 2008. Although the claimant submitted a telephone number, he was not available at the number supplied. The employer participated by Mike Thomas.

ISSUE:

The issue is whether the claimant voluntarily left employment for reasons attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from June 1, 2007 until September 20, 2007 as a temporary worker assigned to work at SFS Intec. Mr. Martinez was assigned to work as a full-time production worker and was paid by the hour. The claimant quit his job indicating he was leaving for medical reasons. The claimant supplied no medical documentation to the employer indicating that he was required to leave for medical reasons and did not request a change to different work or any other accommodation which would have allowed the employer to continue to employ the claimant. Prior to leaving, the claimant indicated no dissatisfaction with working assignments or conditions. Work continued to be available to the claimant at the time of his leaving.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Martinez voluntarily quit employment for reasons that were attributable to the employer. It does not. The evidence of record establishes that the claimant quit without advanced notice indicating only that he was leaving for health reasons. The claimant did not provide any medical documentation to support

his contention that he was required to leave due to health and requested no change in employment or any other accommodation before leaving. Work continued to be available to the claimant in his regular job at the time that he chose to leave employment.

The issue is whether the claimant's voluntarily separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

It is the claimant's burden to prove that the voluntarily quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. The claimant failed to participate in the hearing and has not satisfied that burden. Benefits are denied.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law. The claimant is overpaid benefits in the amount of \$761.00.

DECISION:

The representative's decision dated June 23, 2008, reference 02, is hereby reversed. The claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided that he is otherwise eligible. The claimant is overpaid benefits in the amount of \$761.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs