

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCY E KLOCKO

Claimant

APPEAL NO. 08A-UI-07146-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF DES MOINES

Employer

**OC: 06/15/08 R: 01
Claimant: Respondent (2-R)**

Section 96.5-1-j – Voluntary Quit from Temporary Employment
Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Manpower, Inc. of Des Moines filed a timely appeal from an unemployment insurance decision dated July 28, 2008, reference 02, that allowed benefits to Nancy E. Klocko. After due notice was issued, a telephone hearing was held August 21, 2008 with Branch Manager Dawn Larson participating for the employer. Ms. Klocko did not provide a telephone number at which she could be contacted. The administrative law judge takes official notice of the Agency benefit payment records.

ISSUE:

Did the claimant leave employment with good cause attributable to the employer?
Has the claimant been overpaid?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Nancy E. Klocko was employed by Manpower, Inc. of Des Moines from August 3, 2007 until June 13, 2008. Manpower, Inc. of Des Moines is a temporary employment service, and Ms. Klocko was hired to work on assignments at her employer's client's locations. Her last assignment was at Physicians Weekly and ended on June 13, 2008.

When hired, Ms. Klocko was given a separate written notice advising her that she must contact the temporary employment service within three working days after the end of each assignment in order to request reassignment. The notice advised her that the company would consider that she had voluntarily quit employment if she did not do so. Ms. Klocko did not contact Manpower, Inc. of Des Moines by the close of business on Wednesday, June 18, 2008. Ms. Klocko has received unemployment insurance benefits since filing a claim effective June 15, 2008.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant's separation from employment was a disqualifying event. The administrative law judge concludes that it was.

The evidence in this record establishes that Manpower, Inc. of Des Moines is a temporary employment service and that Ms. Klocko worked on assignments for the company. Separations from such employment at the end of assignments is covered by Iowa Code section 96.5-1-j. The statute provides that if the employer at the time of hire gives the employee a separate written notice advising the employee that the employee must contact the employer within three working days after the end of an assignment and the employee does not do so, the separation is considered to be a voluntary quit without good cause attributable to the employer. Evidence in this record persuades the administrative law judge that Manpower, Inc. of Des Moines gave Ms. Klocko the required notice and that Ms. Klocko failed to contact the employer within three working days after June 13, 2008. Under these circumstances, benefits must be withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment insurance benefits since her most recent separation from employment. The question of whether the benefits must be repaid is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated July 28, 2008, reference 02, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs