

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CRYSTAL BEADLE
3826 – 4TH ST
DES MOINES IA 50313-3520

DES STAFFING SERVICES INC
1300 CUMMINGS RD #200
DES MOINES IA 50315

Appeal Number: 06A-UI-03027-DWT
OC: 02/05/06 R: 02
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

DES Staffing Services, Inc. (employer) appealed a representative's March 3, 2006 decision (reference 02) that concluded Crystal Beadle (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 4, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Kathy Anderson, the human resources coordinator, and Michelle Wendell, a division manager, appeared on the employer's behalf. During the hearing Employer's Exhibits One through Four were offered and admitted as evidence. Based on the evidence, the arguments of the employer, and the law, the

administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on February 17, 2005. Most recently the employer assigned the claimant to a job on March 10, 2005. This was a long term assignment. The claimant received a copy of the employer's temporary contract on February 16, 2005. The contract informs employees it is their responsibility to contact the employer within three days of completing a job assignment and failure to do so is deemed as a voluntarily quit. (Employer Exhibit Two.)

On November 22, 2005, the claimant sent Wendell an email indicating the client planned to call the claimant back to work in the spring, but she would done or laid off from this assignment in mid-December.

When the employer did not receive any time cards from the claimant for a few weeks, Wendell called the claimant on December 14, 2005. During this conversation, the claimant told Wendell the client wanted her to work at least on Thursday and Friday, December 15 and 16. Wendell asked the claimant to contact her when the client no longer had work for the clamant to do or the claimant was going to be laid off for a period of time. (Employer's Exhibit Four.)

The claimant did not contact the employer again until February 6, 2006. As of December 14, 2005, and through February 6, 2006, the employer had temporary job assignments the claimant could have been assigned to work.

On March 6, 2006, the claimant submitted her time cards for the week of November 27 and December 4. The time cards indicate the claimant worked December 5, but no other day during this week. The claimant did not submit any timecards for the week of December 11, 2005, or any subsequent week. (Employer's Exhibit One.)

The claimant established a claim for unemployment insurance benefits during the week of February 5, 2006. The claimant filed claims for the weeks ending February 11 and 18, 2006. The Department used the benefits the claimant was entitled to receive these two weeks, \$618.00, to offset a previously established overpayment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for work-connected misconduct. Iowa Code § 96.5-1, 2-1. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment

insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. 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 that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j.

The evidence does not establish that the employer discharged the claimant. Instead, the facts indicate the claimant did not contact the employer when the client laid her off from work or had no more work for the claimant to do. Even though the client planned to or has called the claimant back to work, the employer had temporary work the claimant could have worked between December 17 and February 6, 2006, or until the client called her back to work. The evidence presented during the hearing, establishes the claimant knew or should have known the employer would consider her to have voluntarily quit working for the employer if she failed to notify the employer within three days of completing a job assignment for a client. In mid-December, the employer even asked the claimant to contact the employer when the client did not have work for her to do. Based on Iowa Code § 96.5-1-j, the claimant is not qualified to receive unemployment insurance benefits as of February 5, 2006.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits or have benefits for the weeks ending February 11 and 18 be used to offset a previously established overpayment. The claimant has been overpaid \$618.00 in benefits for these weeks.

DECISION:

The representative's March 3, 2006 decision (reference 02) is reversed. The employer did not discharge the claimant. Instead, the claimant is deemed to have voluntarily quit for unemployment insurance purposes. The claimant is disqualified from receiving unemployment insurance benefits as of February 5, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits or have benefits for the weeks ending February 11 and 18 be used to offset a previous overpayment. The claimant has been overpaid and must repay a total of \$618.00.

dlw/pjs