

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAWANNA T NEAL
Claimant

APPEAL NO. 11A-UI-03531-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

OC: 06/27/10
Claimant: Respondent (2R)

Iowa Administrative Code – 871 IAC 24.26(19) Voluntary Quit Spot or Casual Labor
Iowa Code § 96.5(1)j – Voluntary Leaving – Temporary Employment

STATEMENT OF THE CASE:

Employer filed an appeal from the March 18, 2011, reference 07, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on April 12, 2011. The claimant did not participate, having failed to respond to the hearing notice. The employer participated.

ISSUE:

The issue is whether claimant was voluntarily quit her work from a temporary employment firm.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed through the employer performing various temporary work assignments through when an assignment ended on January 21, 2011. The claimant had been told by a written notification separate from the employment agreement that she was required to ask for a new assignment within three working days of the ending of an assignment or that she would be considered a quit. She did not request a new assignment within three working days of the completion of an assignment and therefore quit without good cause attributable to the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntary quit her employment.

The law requires an employer who is covered by the law to require “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.” Iowa Code 96.5-1-j. The claimant did receive this document.

The claimant was a temporary employee and was required to notify the temporary agency with three working days of the end of the assignment and of the availability to accept reassignment. In this case, the claimant did not give the employer notice of her availability within this three-day period, and therefore is considered to have quit without good cause attributable to the employer.

The next issue concerns an overpayment of unemployment insurance benefits.

Iowa Code § 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.

This matter is remanded to claims section for determination of an overpayment.

DECISION:

The March 18, 2011 reference 07, decision is reversed and remanded. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. This matter is remanded to the claims section for determination of an overpayment.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/pjs