

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

ALICIA K DUSENBERRY
PO BOX 932
WILTON IA 52778

L A LEASING INC
SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265

Appeal Number: 06A-UI-00159-DWT
OC: 12/04/05 R: 04
Claimant: Appellant (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 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Alicia K. Dusenberry (claimant) appealed a representative's December 29, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the employer's account was not subject to charge because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 24, 2006. The claimant participated in the hearing. Colleen McGuinty appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant registered to work for the employer's clients in August 2005. The employer assigned the claimant to a job on September 9, 2005. The client contacted the employer and ended the claimant's job assignment because the client concluded the claimant did not work fast enough.

On December 1, 2005, the employer informed the claimant that the client let her go because her work performance was not satisfactory. The claimant had no idea her job was in jeopardy. The employer told the claimant the employer would keep looking for a job for her. The claimant did not contact the employer again because she assumed the employer would contact her when the employer had another job to assign to her.

The claimant established a claim for unemployment insurance benefits during the week of December 4, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits she voluntarily quits employment without good cause attributable to the employer or if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The claimant became unemployed when the employer's client asked the employer to remove the claimant from the assignment for unsatisfactory work performance. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

A claimant who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if she 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 claimant 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. This law section does not apply to this case because the claimant did not complete the job assignment. Also, when the employer told her she could no longer work at the assignment, the employer indicated the employer would keep looking for another job for the claimant. Based on this statement, the claimant reasonably relied on the employer to contact her when another assignment became available to assign to her.

The claimant became unemployed for reasons that do not disqualify her from receiving unemployment insurance benefits. As of December 4, 2005, the claimant is qualified to receive unemployment insurance benefits.

The employer is not one of the claimant's base period employers. The employer's account will not be charged during the claimant's current benefit year.

DECISION:

The representative's December 29, 2005 decision (reference 01) is reversed. The claimant did not voluntarily quit her employment. Instead, the claimant became unemployed when the employer's client ended her assignment for unsatisfactory work performance. As of December 4, 2005, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

dlw/kjf