

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

AMENDED

Appeal Number: 06A-UI-00168-HT
OC: 12/04/05 R: 03
Claimant: Respondent (2)

DANIELLE L GLESSNER
APT 19
1215 OAKLAND RD NE
CEDAR RAPIDS IA 52402

SEDONA STAFFING
2333 BLAIRS FERRY RD
CEDAR RAPIDS IA 52402

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 – Quit/Temporary
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Sedona Staffing, filed an appeal from a decision dated December 28, 2005, reference 01. The decision allowed benefits to the claimant, Danielle Glessner. After due notice was issued, a hearing was held by telephone conference call on January 23, 2006. The claimant participated on her own behalf. The employer participated by Unemployment Benefits Administrator Colleen McGuinty and Account Manager Tom Appel.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Danielle Glessner began working for Sedona Staffing on March 18, 2004. Her last assignment began on September 23, 2005 at Westside Unlimited. It was an indefinite assignment on a temp-to-hire basis. The claimant had received and signed policy statements from the employer which notified her that she must call and request a new assignment within three days of the end of any prior assignment.

On November 29, 2005, she was removed from her assignment at Westside Unlimited because she had been no-call/no-show to work during two days of the assignment. She had not called in prior to the start of her shift on November 29, 2005, as required. Account Manager Tom Appel notified her by phone that the client company did not want her to return.

After being removed from that assignment the claimant did not contact Sedona Staffing for a new assignment.

Danielle Glessner has received unemployment benefits since filing a claim with an effective date of December 4, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

Iowa Code section 96.5-1-j provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department, But the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring 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.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The claimant had been advised in writing of the requirement to call in for a new assignment within three days of the end of any prior assignment. After she had been removed from Westside Unlimited for attendance problems, Ms. Glessner did not request another assignment. Under the provisions of the above Code section, this is considered a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

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.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of December 28, 2005, reference 01, is reversed. Danielle Glessner is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible. She is overpaid in the amount of \$1,442.00.

bgh/tjc/kjw