

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARRIE A COLLINS**

Claimant

**APPEAL NO: 08A-UI-07147-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INC OF DES MOINES**

Employer

**OC: 06/15/08 R: 02  
Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Leaving  
Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(19) – Temporary Employment  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Manpower, Inc. of Des Moines (employer) appealed a representative's July 28, 2008 decision (reference 02) that concluded Carrie A. Collins (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 21, 2008. The claimant participated in the hearing. Brenda McNealey 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:**

Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

The employer is a temporary employment firm. The claimant began taking assignments out of the employer's Fort Dodge, Iowa office on March 27, 2006. She resumed taking assignments with the employer as of July 2, 2007, when she began an assignment doing full time phone sales work with the employer's Fort Dodge, Iowa business client. Her last day on the assignment was June 13, 2008. The assignment ended because of a slow down in work on the part of the business client.

On May 21 the claimant contacted the employer and informed the employer of the anticipated ending of the assignment on June 13. She advised the employer that she would not be available for reassignment after that date as she was planning on moving out of the Fort Dodge area to the Des Moines area, which she did on June 15. Her reason for this was to seek employment in a different labor market. She did not report for or seek reassignment with the employer in the employer's Des Moines office upon her move to Des Moines. The claimant had been provided with the employer's policy that she was required to make herself available for

reassignment within three days after the ending of an assignment in order to avoid being deemed to be a voluntary quit.

The claimant established a claim for unemployment insurance benefits effective June 15, 2008. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$3,400.00.

**REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if she fails to make herself available to the employer for reassignment within three business days of the ending of an assignment in order to avoid being treated as a voluntary quit. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

In this case, rather than making herself available for reassignment, the claimant affirmatively informed the employer that she would not be available for reassignment. She thus expressed or exhibited the intent to cease working for the employer and did act to carry it out. Iowa Code § 96.5-1. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause attributable to the employer.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving employment in order to move to another locality to seek other employment is not for good cause attributable to the employer. 871 IAC 24.25(2), (3). The claimant has not satisfied her burden. Benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Claims Section.

**DECISION:**

The representative's July 28, 2008 decision (reference 02) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of June 13, 2008, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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