

claimant performed services from February 14, 2005 through the present. She signed a document on February 14, 2005, indicating that she was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The employer gave the claimant a copy of the document. The claimant completed a work assignment on August 11, 2005, but did not seek reassignment from the employer until August 18, 2005.

On August 18, 2005, the employer offered the claimant work for a position which was to start on August 22, 2005. The claimant did not appear for work on August 22, 2005, because the distance to the offered job was ten miles further away from her residence.

The testimony of the employer and claimant was conflicting. The administrative law judge finds the employer's testimony to be more credible because the claimant's testimony was inconsistent.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was separated from the employer for any disqualifying reason. As an employee of a temporary service, the claimant was required to request reassignment after the completion of her last assignment.

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 did not request reassignment and has, therefore, failed to satisfy the requirements of Iowa Code section 96.5-1-j. Benefits are denied.

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 benefits in the amount of \$327.00 since filing her claim herein. Pursuant to this decision, those benefits now constitute an overpayment which must be repaid.

DECISION:

The representative's September 6, 2005 decision (reference 04) is reversed. The claimant is not eligible to receive unemployment insurance benefits. The claimant is overpaid benefits in the amount of \$327.00.

bas/kjw