

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TWILA G SCHWALBE
Claimant

APPEAL NO. 10A-UI-08084-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 04/25/10
Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated June 2, 2010, reference 01, that concluded the claimant completed her temporary work assignment and was eligible for benefits. A telephone hearing was held on July 21, 2010. The parties were properly notified about the hearing. The claimant was called for the hearing but was not available and failed to participate in the hearing. Holly Carter participated in the hearing on behalf of the employer with a witness, Sandy Cullighan. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, she signed a statement that she would be considered to have voluntarily quit employment if she did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked for the employer from June 25, 2008, to December 23, 2009, on an assignment as an assembler at Kawasaki Motors. The claimant did not contact the employer within three days after the completion of the work assignment to request another assignment. Instead, she went to the office to pick up her paycheck on December 31, 2009. She told the supervisor that she wanted to take a break from working due to problems with her wrist. She was offered work on January 4, 2010, which she declined.

The claimant filed for and received a total of \$2,700.00 in unemployment insurance benefits for the weeks between April 25 and July 17, 2010.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The claimant voluntarily quit her employment when she failed to contact the employer within three working days after the completion of a work assignment and seek a new assignment.

The unemployment insurance law requires benefits to 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. But the overpayment will not be recovered when an initial determination to award benefits is reversed on appeal 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 section 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

DECISION:

The unemployment insurance decision dated June 2, 2010, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs