

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRISSY L EARNEY
Claimant

APPEAL NO. 10A-UI-15886-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES**
Employer

OC: 09/12/10
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Benefit Overpayment

STATEMENT OF THE CASE:

Manpower Temporary Services filed a timely appeal from a representative's decision dated November 8, 2010, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on January 31, 2011. The claimant participated personally. The employer participated by Mr. Chris Crego.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer and whether the claimant has been overpaid job insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Ms. Chrissy Earney was employed by Manpower International from October 26, 2009 until November 23, 2009 when she voluntarily quit employment. Ms. Earney was employed to work at Packing Corporation of America as a machine operator and was paid by the hour. The claimant left employment because she felt that the temporary job that she had accepted was too physically demanding. Ms. Earney was aware of the nature of the work when she accepted it and work continued to be available to the claimant at the time of her leaving. Ms. Earney did not re-contact Manpower Temporary Services for additional work assignments after leaving her most recent assignment with the company.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 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.

The evidence in the record establishes that the claimant was not discharged by the employer but instead chose to voluntarily leave her employment due to dissatisfaction with the physical nature of the work that she had accepted. The evidence in the record establishes that Ms. Earney was informed as to the nature of the work at the temporary assignment and had accepted it. The claimant provided no medical documentation to the employer to indicate that she was unable to perform the work for medical reasons. The claimant left her employment because she felt the work was too physical. Continued employment was available to the claimant at the time that she chose to quit the temporary assignment. Benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

DECISION:

The representative's decision dated November 8, 2010, reference 01, is reversed. The claimant voluntarily left employment without good cause attributable to the employer. . Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for

insured work equal to ten times her weekly benefit amount, and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css