

#### 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: Oscar Suarez was employed by Manpower from March 5, 2005 until August 5, 2005. He was assigned to Wells Dairy during that entire time. At the time of hire he signed an employment agreement in which he was notified to contact Manpower within 48 hours of the end of each assignment.

When the client company no longer needed the temporary help, Mr. Suarez was released. However, he did not contact anyone at Manpower to request another assignment, or contact it for any reason after that day. Staffing Specialist Kelly Weaver attempted to call the claimant on August 16, 2005, but no one answered the phone and there was no means for leaving a message.

Oscar Suarez has received unemployment benefits since filing a claim with an effective date of August 7, 2005.

The record was closed at 11:12 a.m. At 11:34 a.m. the claimant called and requested to participate. He had received the notice of the hearing and knew the time and date of the hearing. However, he was conducting personal business prior to the hearing and did not return in time to receive the call.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he 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 knew he was to report to the Manpower office after the end of his assignment in order to request further work. He failed to do this, and under the provisions of the above Code section, this is a voluntary quit without good cause attributable to the employer. He 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 he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

The next issue is whether the record should be reopened. The judge concludes it should not. The claimant received the notice of the hearing but for personal reasons made himself unavailable to take the call from the judge at the scheduled time. This was not a medical emergency but a personal errand entirely within his control. Under the provisions of 871 IAC 26.14(7) this does not constitute good cause for reopening the record.

DECISION:

The representative's decision of September 8, 2005, reference 03, is reversed. Oscar Suarez is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible. He is overpaid in the amount of \$2,200.00.

bgh/kjw