

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL L RANDALL
Claimant

L A LEASING INC
Employer

APPEAL NO. 16A-UI-10799-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/12/16
Claimant: Respondent (2R)**

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated September 30, 2016, reference 04, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 18, 2016. Employer participated by Colleen McGuinty and Corey Thompson. Claimant failed to respond to the hearing notice and did not participate. Employer's exhibit 1 was admitted into evidence.

ISSUES:

Whether claimant was discharged for misconduct?

Whether claimant was overpaid benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

Did the claimant quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 5, 2016.

On September 6, 2016 employer contacted claimant stating that his placement had ended. Claimant did not request a new placement at that time. Claimant did not contact employer within the next three days requesting placement in a new assignment.

Claimant did sign a document in June of 2016 indicating that he understood that he needed to be in contact with employer within three days of the ending of his assignment or it could adversely affect his ability to receive unemployment benefits in this matter.

It is unknown if claimant has received unemployment benefits in this matter.

Employer did substantially participate in fact finding in this matter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. The plain language of the statute allows benefits for a claimant “who notifies the temporary employment firm of completion of an employment assignment *and* who seeks reassignment.” (Emphasis supplied.)

In this case, the employer had notice of the claimant’s availability because it notified him of the end of the assignment but claimant did not request another assignment. Benefits are denied.

The overpayment issue is remanded to the factfinder as claimant did not participate in the hearing.

The issue of employer participation was addressed. As employer did substantially participate in fact finding in this matter, employer’s account will not be charged for any overpayments received by claimant.

DECISION:

The decision of the representative dated September 30, 2016, reference 04, is reversed and remanded to the fact finder on the issue of overpayment of unemployment benefits. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant’s weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs