

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**JAMIE K FLATHERS**

Claimant

**APPEAL 21A-UI-11750-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**

Employer

**OC: 03/29/20**

**Claimant: Respondent (2)**

---

Iowa Code § 96.5(2)a – Discharge for Misconduct

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

PL 116-136 Sec. 2104 – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer filed an appeal from the April 22, 2021 (reference 04) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 14, 2021. The claimant participated personally. The employer participated through Melissa Lewien.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

Was the claimant discharged for disqualifying job-related misconduct?

Was the claimant overpaid benefits?

Was the claimant overpaid Federal Pandemic Unemployment Compensation?

Is the employer’s account subject to charge?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked in a seasonal role as a nurse for the employer. Claimant was assigned to the employer’s client Corteva. The employer has a clear policy that requires employees to contact the employer within three days after the end of their assignment for reassignment. The policy states that failure to do so will be considered a voluntary quit. The policy also contains a very clear acknowledgement by the employee that they understand that their failure to report within three days could affect their eligibility for unemployment benefits. Claimant acknowledged the policy, and received a copy of the policy in writing. The claimant was given a copy of the document which was separate from the contract for hire.

Some time prior to her last day, claimant was notified by Corteva that her last day of her assignment with them would be August 2, 2020. A few days prior to that claimant spoke with Laura Martinez, the employer’s on site Human Resources Coordinator about the possibility of staying on at Corteva. Client was told the assignment was ending August 2, 2020. After the assignment was over claimant never contacted anyone with the employer about reassignment.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

As a preliminary matter, the administrative law judge finds that the claimant was not terminated for misconduct.

Iowa Code §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.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In this case, the claimant failed to follow the employer's policy, which required her to follow up within three days after the end of her assignment. There was some disagreement as to who should have been called whether it was the onsite HR Coordinator (whom the claimant stated had always been her contact about being assigned) or the Waterloo office of the employer (whom the employer states claimant was instructed to follow up with). That is irrelevant however, because the claimant admits that she did not follow up with anyone after the assignment was over as required by policy. As such, claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Iowa Code § 96.3(7) provides, in pertinent part:

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) (b) 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 reveal on appeal regarding the issue of the individuals separation from employment.

PL 116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual; and

(B) such repayment would be contrary to equity and good conscience.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$XXXX.00. The benefits were not received due to any fraud or willful misrepresentation by the claimant.

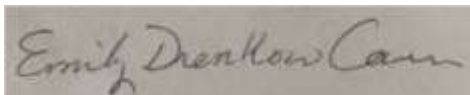
Benefits were paid to claimant to which she was not entitled. The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for those benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits 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 if it is determined that they did participate in the fact-finding interview. Iowa Code § 96.3(7).

Because claimant is not eligible for regular state unemployment, claimant is also not eligible for FPUC. The administrative law judge concludes that claimant has been overpaid FPUC in the gross amount stated in the findings of fact above.

In this case, the claimant has received benefits but was not eligible for those benefits. The employer participated in the fact-finding interview and the claimant needs to repay the benefits.

**DECISION:**

The April 22, 2021 unemployment insurance decision is reversed. Benefits are denied. Claimant was overpaid benefits which must be repaid.



---

Emily Drenkow Carr  
Administrative Law Judge

July 28, 2021  
Decision Dated and Mailed

ed/ol