

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERYL J PETERSON
Claimant

APPEAL NO. 06A-UI-09680-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING
Employer

**OC: 09/04/05 R: 03
Claimant: Respondent (2)**

Section 96.5-1-j – Voluntary Leave Temporary Employment Firm
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Sedona Staffing (employer) appealed a representative's September 22, 2006 decision (reference 01) that concluded Cheryl J. Peterson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant became unemployed for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 17, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Sarah Schneck and Tom Appel, an account manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant registered to work for the employer's clients in November 2005. The claimant indicated she was interested in customer service work. The employer is a temporary staffing firm. In November 2005, the claimant signed paperwork indicating that when she completed a job assignment, she must contact the employer within three days to find out if the employer had another job to assign to her. The form also indicated that if the claimant failed to contact the

employer, her unemployment insurance benefits could be affected. The claimant received a copy of the paperwork she signed.

The employer received information that the claimant's job assignment would end on August 18, 2006. The employer informed the claimant on August 11 that her job would end on August 18, 2006. The claimant completed the job assignment on August 18. The employer did not have another customer service job to assign the claimant right away. On September 1, the employer contacted the claimant about a potential customer service job.

The claimant reopened her claim during the week of August 20, 2006. She filed claims for the weeks ending August 26 and September 2, 2006. The claimant received her maximum weekly benefit amount of \$254.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if she fails to notify the employer. Iowa Code § 96.5-1-j.

Without the claimant's testimony, a preponderance of the evidence establishes the employer advised the claimant in writing at the time of hire she was required to contact the employer within three working days of completing a job assignment to see if the employer could assign her another job. Even though the employer may not have had another customer service job to assign the claimant, the employer may have other jobs the claimant could have been assigned to do. The claimant's failure to contact the employer within three working days of August 18 prevented the employer with the opportunity to assign the claimant another job.

Based on the Iowa Code § 96.5-1-j, the claimant is not qualified to receive unemployment insurance benefits as of August 20, 2006,

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending August 26 and September 2, 2006. The claimant has been overpaid \$508.00 in benefits she received for these weeks.

DECISION:

The representative's September 22, 2006 decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits as of August 20, 2006, because she failed to contact the employer within three working days of completing a job assignment even though employer provided written information of this requirement when she started working for the employer. The claimant's disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits

for the weeks ending August 26 and September 2, 2006. The claimant has been overpaid and must repay a total of \$504.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw