

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**LEANNA K HARESTAD**  
Claimant

**ADECCO USA INC**  
Employer

**APPEAL 15A-UI-14076-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/01/15  
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

Adecco USA, Inc. (employer) filed an appeal from the December 16, 2015, (reference 03) unemployment insurance decision that allowed benefits based upon the determination it discharged Leanna Harestad (claimant) because her assignment ended which is not disqualifying misconduct. The parties were properly notified about the hearing. A telephone hearing was held on January 13, 2016. The claimant participated on her own behalf. The employer participated through Recruiter Marsha Heck and was represented by Michele Hawkins of Talx UCM Inc. Employer's Exhibit 1 was received.

**ISSUES:**

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

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time temporary employee with the employer's client Syngenta beginning on January 19, 2015, and her last day at the assignment was September 30, 2015. Her assignment ended due to a lack of funding. Within two days of the end of her assignment, the claimant called the employer to discuss her availability for another assignment and the minimum wage she would accept. She was told at that time there was no work available for her. The employer has a policy stating the employee has three days after the end of an assignment to contact the employer.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$2,400.00, since filing a claim with an effective date of November 1, 2015, for the ten weeks ending January 9, 2016. The administrative record also establishes that the employer did participate in the fact-finding interview.

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

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer. Benefits are allowed.

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. 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 employer argued the claimant did not contact it within three days of the end of her assignment as evidenced by a lack of notes in the file maintained by the employer. The claimant testified she contacted the employer and discussed specific details related to her availability. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may

believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the claimant's testimony to be more credible. While the employer keeps notes about interactions with employees, not all of the notes are kept in the same place as during the hearing the employer's witness found handwritten notes added to the claimant's file that were not in her computer notes. Additionally, the employer's witness was not clear on dates, initially indicating it was one month after the claimant's project ended that the employer discovered she was no longer working, but then said they learned about the end of the project on November 30, 2015, which would have been two months later.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Since she contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, benefits are allowed, provided she is otherwise eligible.

As benefits are allowed, the issues of overpayment, repayment, and the chargeability of the employer account are moot.

#### **DECISION:**

The December 16, 2015, (reference 03) unemployment insurance decision is affirmed. The claimant's separation from employment was attributable to the employer. The employer had adequate knowledge about the conclusion of the claimant's assignment and the request for more work but had no further work available at the time. Benefits are allowed, provided the claimant is otherwise eligible. The issues of overpayment, repayment, and the chargeability of the employer account are moot.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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