

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHARON L SCHAUMBURG**  
Claimant

**APPEAL NO: 13A-UI-05306-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**  
Employer

**OC: 03/31/13**

**Claimant: Respondent (2/R)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(15) – Temporary Employment  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

QPS Employment Group (employer) appealed a representative's April 26, 2013 decision (reference 03) that concluded Sharon L. Schaumburg (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 7, 2013. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Rhonda Hefter de Santisteban appeared on the employer's behalf and presented testimony from one other witness, Tyler Brandt. 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.

**ISSUE:**

Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant began taking assignments through the employer's Grinnell, Iowa office on September 6, 2013. Her final assignment began on March 15, 2013. She worked full time as a cleanup worker at the employer's Victor, Iowa business client through March 18, 2013. The assignment ended that date because the business client deemed the claimant's work on the assignment to be completed. Brandt, the onsite placement coordinator, informed the claimant that her assignment was ended when she left work on March 18. He also advised her that if she wished further assignment with the employer she should contact the Grinnell office. The claimant had previously received a notice from the employer advising her that it was her obligation to seek reassignment within three business days of the ending of an assignment to avoid being considered to be a voluntary quit. The claimant did not contact the employer after March 18 to seek reassignment.

The claimant established a claim for unemployment insurance benefits effective March 31, 2013. The claimant has received unemployment insurance benefits after the separation.

**REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit her employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j; 871 IAC 24.26(15). The claimant did not seek reassignment as required. Benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for 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 whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of determining the amount of the overpayment and whether the claimant is eligible for a waiver of overpayment under Iowa Code § 96.3-7-b is remanded the Claims Section.

**DECISION:**

The representative's April 26, 2013 decision (reference 03) is reversed. The claimant voluntarily left her employment by failing to seek reassignment. As of March 22, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs