

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GREGORY G GRUSS**  
Claimant

**APPEAL NO. 11A-UI-12884-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**USA STAFFING INC**  
Employer

**OC: 08/21/11**  
**Claimant: Respondent (2-R)**

Section 96.5-1 - Voluntary Quit of Staffing Company  
Section 96.3-7 - Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated September 21, 2011, reference 03, that concluded he had contacted the temporary employment firm within three days after completing a job assignment and was eligible for benefits. A telephone hearing was held on October 20, 2011. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Alissa Douglas participated in the hearing on behalf of the employer.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?  
Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer from January 21, 2011, to August 12, 2011. When the claimant was hired, he signed a statement that he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

After completing a temporary work assignment on August 12, 2011, the claimant failed to contact the employer to obtain another work assignment. The employer considered him to have voluntarily quit employment under the policy.

The claimant filed for and received a total of \$1,925.00 in unemployment insurance benefits for the weeks between August 21 and September 24, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a

new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The claimant is deemed to have voluntarily quit employment without good cause attributable to the employer because he did not contact the employer within three days after he completed his work assignment on August 12, 2011.

The unemployment insurance law requires benefits to 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. But the overpayment will not be recovered when an initial determination to award benefits is reversed on appeal 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 deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated September 21, 2011, reference 03, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/pjs