

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 04A-UI-09311-SWT
OC: 02/29/04 R: 03
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 20, 2004, reference 06, that concluded she was still employed part time and was available for work. A telephone hearing was held on September 21, 2004. The parties were properly notified about the hearing. The claimant failed to provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Kim Ordaz participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant was informed and understood that under the employer's work

rules, employees were required to notify the employer if they were not able to work as scheduled.

The claimant worked full time for the employer at CCB Packaging from December 2003 to July 3, 2004. The claimant called the employer on July 6, 8, and 9 stating that she would not be at work because her grandmother was sick. She stated that she would be at work on July 12 but failed to report to work or notify the employer about her absence. The claimant did not have any contact with the employer again until August. The employer had continuing work available for the claimant if she had reported to work. She voluntarily quit employment effective July 12.

The claimant filed an additional claim for unemployment insurance benefits with an effective date of July 18, 2004. The claimant filed for and received a total of \$588.00 in unemployment insurance benefits for the weeks between July 18 and September 4, 2004.

The next time the claimant contacted the employer was on August 4. She asked if she could come back to work. The employer agreed and the claimant was to start work again on August 9. The claimant called and left messages stating she was not able to work on August 9, 10, and 11. On August 11, the employer called and left a message for the claimant to call and talk to someone. The claimant had no further contact with the employer.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

Iowa Code section 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.

The claimant voluntarily quit employment without good cause attributable to the employer effective July 12 when she failed to report for scheduled work and failed to contact the employer afterward. Since the claimant did not participate in the hearing, her reasons for quitting are not known. No good cause has been established for quitting and the employer had continuing work available for the claimant if she had reported to work.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits effective July 12, 2004, and was overpaid \$588.00 in benefits for the weeks between July 18 and September 4, 2004.

DECISION:

The unemployment insurance decision dated August 20, 2004, reference 06, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$588.00 in unemployment insurance benefits, which must be repaid.

saw/tjc