

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREW ARDUSER
Claimant

APPEAL NO: 14A-UI-13194-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 11/09/14
Claimant: Respondent (2/R)

Iowa Code § 96.5(1)j - Voluntary Quit a Temporary Staffing Firm

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 15, 2014 determination (reference 04) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment was for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate at the January 20 hearing. Colleen McGuinty and Shelby Kingery, a branch manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits as of November 9 and has been overpaid benefits.

ISSUES:

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

Has the claimant been overpaid any benefits?

If the claimant has been overpaid, is he responsible for paying back the overpayment?

FINDINGS OF FACT:

The claimant registered to work with the employer on September 25, 2014. When the claimant registered, he signed a document and received a copy informing him that when he completed a job assignment he was required to contact the employer within three days for another assignment. If he did not do this, the employer would consider him to have voluntarily quit.

The employer assigned the claimant to a job on September 29, 2014. The claimant completed the job assignment on November 14, 2014. The client informed the claimant that he had completed the assignment. The client also informed the employer that the claimant had completed the assignment. The claimant has not contacted the employer again for another assignment.

The claimant established a claim for benefits during the week of November 9, 2014. He filed for and received benefits for the weeks ending November 22, 2014, through January 10, 2015. He received his maximum weekly benefit amount of \$432 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if he 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 in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if he fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j.

The claimant registered to work with the employer, a temporary employment firm, and was advised in writing about the three-day notification rule. The claimant completed a job assignment and failed to contact the employer about another assignment. Based on Iowa Code § 96.5(1)j, the claimant voluntarily quit this employment. When a claimant quits, he has the burden to establish he is qualified to receive benefits. Iowa Code § 96.6(2).

The evidence does not establish that the claimant had good cause for failing to contact the employer about another job assignment. Based on the law, the claimant voluntarily quit for reasons that do not qualify him to receive benefits. As of November 9, 2014, the claimant is not qualified to receive benefits. The employer is not one of the claimant's base period employers.

If an individual receives benefits he 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). Based on this decision, the claimant is not legally entitled to receive benefits for the weeks ending November 22, 2014, through January 10, 2015. He has been overpaid \$3456 in benefits he received for these weeks.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)a, b.

The administrative record indicates the employer provided a written statement for the fact-finding interview. Even though the employer will not be charged because the employer is not a base period employer, this matter will be remanded to the Benefits Bureau to determine if the employer satisfied the participation requirements of the law. If the employer satisfied the participation requirement, the claimant is required to pay back the \$3456 overpayment. If the employer did not satisfy the participation requirement, the claimant will not be required to pay back the overpayment.

DECISION:

The representative's December 15, 2014 determination (reference 04) is reversed. For unemployment insurance purposes, the claimant voluntarily quit this employment when he failed to timely contact the employer for another job assignment. As of November 9, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer is not one of the claimant's base period employers and will not be charged during this current benefit year.

The claimant has been overpaid \$3456 in benefits he received for the weeks ending November 22, 2014, through January 10, 2015.

This matter is **Remanded** to the Benefits Bureau to determine if the employer satisfied the participation requirements of the law.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs