

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD E BICKERS
Claimant

APPEAL NO. 13A-UI-07990-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 06/09/13
Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit of Temporary Employer
Section 96.3-7 - Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 1, 2013, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 13, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Sarah Fiedler 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 started working for the employer in November 30, 2010. His last assignment was working at the Winegard Company, which ended on June 3, 2013.

When the claimant was hired, he was given a statement to read and sign that said 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.

On June 3, 2013, the onsite manager at Winegard told the claimant that he was being removed from his assignment at Winegard due to attendance issues.

The claimant never asked the onsite manager at Winegard if the employer had other assignments for him and never contacted the employer within three days to request a new assignment. He did not think he still had a job with the employer after being told that he was being removed from Winegard.

The claimant filed for and received a total of \$2,763 in unemployment insurance benefits for the weeks between June 9 and August 10, 2013.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

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 had received a statement advising him of the requirement to contact the employer to request another assignment. The claimant's belief that he was discharged by the employer was not reasonable under the circumstances. Winegard was not the claimant's employer and the fact that he was removed from the assignment is not a discharge by the employer. He voluntarily quit without good cause and is disqualified from receiving benefits.

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 July 1, 2013, reference 01, 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. 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