

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNA M BREUER

Claimant

APPEAL NO: 13A-UI-11524-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC

Employer

OC: 05/05/13

Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Overpayment of Benefits
871 IAC 24(10) – Employer Participation at Fact Finding

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's October 3, 2013 determination (reference 05) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Katelyn Orth, a staffing specialist, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits as of September 15 and has been overpaid benefits she received for the week ending September 21, 2013.

ISSUES:

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

Has the claimant been overpaid any benefits?

Is the claimant required to pay back any overpayment of benefits?

FINDINGS OF FACT:

The employer, a temporary staffing firm, assigned the claimant to a job that started July 22, 2013. This assignment was to last until mid-December 2013.

The claimant called the employer's client on September 9 and 10 to report she would not be at work. She did not give a reason why she could not work. The claimant should have contacted the employer also, but did not. The claimant did not report to work on September 11 and did not call to report she was unable to work this day. The claimant did not contact the employer or client after September 10. The claimant did not report to work at that assignment again.

The claimant established a claim for benefits during the week of May 5, 2013. She reopened her claim the week of September 15, 2013. She filed a claim for benefits for the week ending September 21, 2013. She received \$175.16 in benefits for this week.

The employer and claimant participated at the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence indicates the claimant voluntarily quit her employment when she failed to return or report to work after September 10, 2013. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

Based on the evidence presented at the hearing, the claimant abandoned her employment by failing to contact the client or employer after September 10, 2013. The claimant did not establish that she quit for reasons that qualify her to receive benefits. Therefore, as of September 15, 2013, the claimant is not qualified to receive benefits.

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. 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. Iowa Code § 96.3(7)b.

Based on the decision in this case, the claimant has been overpaid \$175.16 in benefits she received for the week ending September 21, 2013. Even though the claimant is not at fault in receiving the overpayment, she is required to pay back this amount since both she and the employer participated at the fact-finding interview.

DECISION:

The representative's October 3, 2013 determination (reference 05) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 15, 2013. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Based on this decision, the claimant has been overpaid \$175.16 in benefits she received for the week ending September 21, 2013. Even though the claimant is not at fault in receiving the overpayment, she is required to pay back \$175.16 to the Department.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css