

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LADONNA L BIRCHARD
Claimant

APPEAL NO: 13A-UI-09065-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 06/30/13
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) j – Voluntary Quit Temporary Employment Firm

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's August 5, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant participated in the hearing. Michael Payne, a risk manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant registered to work for the employer on March 15, 2013. On March 15, the claimant received a copy of the employer's policies. The policy informed the claimant that it was her responsibility to contact the employer within three working days after an assignment ended to request another assignment. The policy also informed her that if she did not timely contact the employer for another assignment, her unemployment insurance benefits could be jeopardized.

On March 25, 2013, the employer assigned the claimant to a job at Eaton's. The claimant understood this was a temp-to-hire job. On July 3, 2013, the claimant was shocked when the employer told her this assignment had ended.

The employer's records indicate the first time the claimant contacted the employer for another job assignment was on July 11, 2013. The employer did not have a job for the claimant at that time. The claimant does not know the date she contacted the employer for another assignment.

The claimant established a claim for benefits during the week of June 30, 2013. She has filed claims for the weeks ending. She received partial benefits of \$213.00 for the week ending July 6 and \$389.00 in benefits for the weeks ending July 13 through August 10, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her 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 she 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 she fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j.

The evidence indicates the claimant received information about the three-day notification rule when she registered to work for the employer. While it would have been logical for the employer's representative to ask the claimant on July 3 if she wanted another assignment, the employer trains its representative not to say anything about another job unless a claimant asks for another job assignment. Since the claimant did not know the date she asked for another assignment after she learned her assignment was over on July 3, the employer's records indicate she did not ask about another assignment until July 11. Since July 11 is more than three working days after July 3, the claimant did not satisfy the requirements of Iowa Code § 96.5(1)j. As a result, the claimant must be found disqualified from receiving benefits as of June 30, 2013.

If an individual receives benefits she 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). Since the claimant voluntarily quit her employment without good cause when she failed to timely request another job assignment, the claimant has been overpaid a total of \$2,158.00 in benefits she received for the weeks ending July 6 through August 10, 2013.

The issue of whether the claimant will be required to pay back this overpayment or whether the employer will be charged for the overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's August 5, 2013 determination (reference 01) is reversed. The claimant voluntarily quit her employment by failing to timely request another assignment after she completed an assignment. The claimant did not establish she quit for reasons that qualify her to receive benefits. As of June 30, 2013, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible.

The claimant has been overpaid \$2,158.00 in benefits she received for the weeks ending July 6 through August 10, 2013. This issue of whether the claimant will be required to pay back this overpayment or the employer will be charged this amount is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css