

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID L COLLINS

Claimant

APPEAL NO: 14A-UI-08221-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELS OF FLORIDA INC

Employer

OC: 07/06/14

Claimant: Respondent (2/R)

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

Iowa Code § 96.4(7) – Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 31, 2014 determination (reference 03) that held the claimant qualified to receive benefits and the employer's account subject to charge because after the claimant completed a job assignment he made a timely request for another assignment. The claimant did not respond to the hearing notice or participate at the August 29 hearing. Sarah Adams, an administrative assistant, 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.

ISSUES:

Did the claimant voluntarily quit his 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?

Is the claimant responsible for paying back the overpayment or will the employer's account be charged for any overpayment?

FINDINGS OF FACT:

The claimant started working for the employer, a temporary employment firm, when he applied to work at temp-to-hire job in mid-December 2013. In December 2013, the claimant signed paperwork acknowledging that when he completed a job assignment for the employer he was to request another job assignment within three working days or he could be considered to have quit. The temp-to-hire job ended on February 24, 2014, for attendance issues.

The claimant accepted and worked another job assignment for the employer on April 4, 2014. He completed this one-day assignment. The claimant did not contact the employer for another job after April 4, 2014.

The claimant established a claim for benefits during the week of July 6, 2014. He filed a claim for benefits for the week ending July 12, 2014. He received his maximum weekly benefit amount of \$141 for this week.

The employer's witness did not know if the employer participated at the fact-finding interview.

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 evidence establishes the employer satisfied the requirement of Iowa Code § 96.5(1)j. The facts presented at the hearing do not establish that the claimant made a timely request for another job assignment after April 4, 2014. Based on the Iowa Code § 96.5(1)j, the claimant voluntarily quit working for this employer. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

Since the claimant did not participate at the hearing, the evidence does not establish why the claimant did not contact the employer for another job assignment. He did not establish good cause for ending his employment relationship with this employer. As of April 6, 2014, 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.

In this case, the initial determination held the claimant qualified to receive benefits. Based on this decision, the claimant is not qualified to receive benefits. He has been overpaid \$141 in benefits. Since the employer is a base period employer and the employer's witness did not know if the employer participated at the fact-finding interview, the issue of whether the employer satisfied the participation requirements of the law and whether the claimant is required to pay back \$141 or the employer's account will be charged this amount will be remanded to the Benefits Bureau to determine and issue an appealable determination to both parties.

DECISION:

The representative's July 31, 2014 determination (reference 03) is reversed. The claimant voluntarily quit this employment, but did not establish good cause for quitting. As of April 6, 2014, the claimant is disqualified from receiving unemployment insurance benefits until he has

been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

The claimant has been overpaid \$141 in benefits he received for the week ending July 12, 2014. The issues of whether the employer satisfied the participation requirement of the law and whether the claimant is responsible for paying back the overpayment or the employer's account will be charged are **Remanded** to the Benefits Bureau to decide and issue an appealable determination to both parties.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css