

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**IVONNE DE JESUS**  
Claimant

**APPEAL NO. 09A-UI-18277-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC / SEDONA STAFFING**  
Employer

**Original Claim: 10/25/09  
Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Leaving  
Section 96.5-1-j – Temporary Employment  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

L A Leasing, Inc. / Sedona Staffing (employer) appealed a representative's November 25, 2009 decision (reference 01) that concluded Ivonne de Jesus (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 14, 2010. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Chad Baker appeared on the employer's behalf and presented testimony from one other witness, Kelly Ryan. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant began taking assignments through the employer's Coralville, Iowa, office on October 6, 2008. She initially indicated availability for full-time work and worked on that basis for a business client in October 2008. On January 26, 2009, she informed the employer that her availability had changed so that she was only available part-time, Fridays, Saturdays, and Sundays. On January 30, 2009, she stopped in to see if any work was available and was told that there was part-time weekend work available as a banquet server at the employer's Coralville, Iowa, hotel business client. The schedule would be determined on a week-to-week basis, so the claimant would be required to check in each week to learn what the upcoming schedule would be. The claimant accepted the assignment. Her first day on the assignment was January 31, a Saturday, on which day she worked 8.25 hours. There was no other work on the assignment that weekend.

When the claimant began her employment with the employer, she had signed a statement indicating she realized she needed to check in for work at least three working days after work is completed on an assignment. As applied to the work she did on January 31, she should have checked to see if there was additional work at least by Wednesday, February 4. The next contact the employer had with the claimant was, at the earliest, on February 6 for a paycheck, but she did not inquire if there was additional work.

The last attempted contact between the parties was on February 11 when employer attempted to contact the claimant about returning to the assignment, but was unable to make contact.

The claimant established a claim for unemployment insurance benefits effective October 25, 2009. The claimant has received unemployment insurance benefits after the separation.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit her employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to seek additional work. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed but the employer could have offered further work to avoid any liability for unemployment insurance benefits. Here, the claimant was on an ongoing but intermittent assignment, but failed to maintain contact with the employer to be scheduled for work on the assignment.

The claimant is deemed to have abandoned the assignment and her employment with the employer. Benefits are denied.

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. However, 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. 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 determining the amount of the overpayment and whether the claimant is eligible for a waiver of overpayment under Iowa Code § 96.3-7-b is remanded the Claims Section.

**DECISION:**

The representative's November 25, 2009 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 4, 2009, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue and whether the claimant is eligible for a waiver of any overpayment.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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