

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

GORDON G VOLK  
1700 – 6<sup>TH</sup> AVE SE  
CEDAR RAPIDS IA 52403

CAMBRIDGE TEMPOSITIONS INC  
610 – 32<sup>ND</sup> AVE SW  
CEDAR RAPIDS IA 52404

Appeal Number: 05A-UI-04165-BT  
OC: 11/21/04 R: 03  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-j - Voluntary Quit of Temporary Employment  
Section 96.3-7 - Overpayment

STATEMENT OF THE CASE:

Cambridge Tempositions, Inc. (employer) appealed an unemployment insurance decision dated April 11, 2005, reference 05, which held that Gordon Volk (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 11, 2005. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Tracy Carkhuff, Account Manager. Employer's Exhibit One was admitted into evidence.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time employee working in industrial fabrication from February 2, 2005 through February 21, 2005. At the time of hire, the claimant was advised he had to maintain contact with the employer or he would be considered to have voluntarily quit. He was removed from his assignment at the client's request since the claimant had excessive absences. He was eligible for additional assignments but was not assigned anywhere because he said he was sick, which is why he missed the work. The claimant said he was going to the doctor's and the employer told the claimant to provide them with a work release when he was ready to return to work. The employer next saw the claimant on February 25, 2005 when he picked up his paycheck. At that time, he asked to speak to the owner about being taken off the assignment but the owner was not available. He had called the employer's complaint line to report that the account manager was rude. The general manager called the claimant on February 28, 2005 and apologized on behalf of the employer. The general manager advised the claimant he needed to call in on a regular basis for assignments. The employer never heard from the claimant after that date.

The claimant filed a claim for unemployment insurance benefits effective November 21, 2004 and has received benefits after the separation from employment in the amount of \$156.17.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after ending a 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 the individual in writing of the three-day notification rule. The employer must also notify the individual that he may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j.

The employer was aware of the end of the claimant's assignment because he was removed for poor attendance. At the completion of that assignment, the claimant was not able to work due to illness. However, he never subsequently contacted the employer and was considered to have voluntarily quit. The claimant knew or should have known he was required to maintain contact with the employer if he wanted additional work. The general manager also personally advised him that he was required to maintain contact with the employer for additional work.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The unemployment insurance decision dated April 11, 2005, reference 05, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$156.17.

sdb/pjs