

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

JORGE A VILLAGRANA-HERNANDEZ
PO BOX 253
CONESVILLE IA 52739

CAMBRIDGE TEMPOSITIONS INC
610 – 32ND AVE SW
CEDAR RAPIDS IA 52404

Appeal Number: 05A-UI-02814-DWT
OC: 02/06/05 R: 04
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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Cambridge Tempositions, Inc. (employer) appealed a representative's March 10, 2005 decision (reference 01) that concluded Jorge A. Villagrana-Hernandez (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 7, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Amy Martinez, an account manager, appeared on the employer's behalf. 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.

ISSUES:

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

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant initially registered to work for the employer's business clients in October 16, 2001. The claimant established a pattern of updating his file twice a year.

On October 25, 2004, the claimant updated his file and indicated he was available to work. The employer assigned him to a long-term job on October 25, 2004. The claimant worked at this assignment until January 26, 2005. The claimant did not report to work or contact the employer anytime after January 26, 2005. The employer learned the claimant no longer worked at the assigned job when the employer received the claimant's timecard and noticed he had not worked since January 26, 2005.

The employer had no knowledge a physician treated the claimant or that the claimant had any work restrictions. If the claimant had advised the employer about any work restrictions, the employer would have looked for a job assignment that would accommodate his restrictions. The claimant has not had any contact with the employer after January 26, 2005.

The claimant established a claim for unemployment insurance benefits during the week of February 6, 2005. The claimant filed weekly claims for the weeks ending February 12 through April 2, 2005. The claimant received his maximum weekly benefit amount of \$302.00 each week.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts indicate the employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment by abandoning his job by failing to work or contacting the employer anytime after January 26, 2005. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code § 96.6-2. Since the claimant did not participate in the hearing, the evidence does not indicate why the claimant did not continue working after January 26, 2005, or why he has not contacted the employer anytime after January 26, 2005. As a result, the evidence does not establish that the claimant quit his employment with good cause. Therefore, the claimant is not qualified to receive unemployment insurance benefits as of February 6, 2005.

If an individual receives benefits he 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. The claimant is not legally entitled to receive benefits

during the weeks ending February 12, 2005 through April 2, 2005. The claimant has been overpaid \$2,416.00 in benefits he received for these weeks.

DECISION:

The representative's March 10, 2005 decision (reference 01) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment by abandoning it after January 26, 2005. The claimant is disqualified from receiving unemployment insurance benefits as of February 6, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits during the weeks ending February 12 through April 2, 2005. The claimant has been overpaid and must repay \$2,416.00 in benefits he received for these weeks.

dlw/sc