

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

DORA ALICIA CHAVEZ
1340 - 23RD #6
DES MOINES IA 50311

DES STAFFING SERVICES INC
3326 INDIANOLA AVE
DES MOINES IA 50315

AMENDED

Appeal Number: 05A-UI-00943-SWT
OC: 05/09/04 R: 02
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-j – Voluntary Quit
Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 24, 2005, reference 04, that concluded the claimant was qualified to receive unemployment insurance benefits. A telephone hearing was held on February 16, 2005. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Kathy Anderson participated in the hearing on behalf of the employer with a witness, Elisa Rivera. Exhibit One was admitted into evidence at the hearing.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer from October 15, 2004 to December 3, 2004. The claimant signed a written statement verifying that she understood that employees

were required to contact the employer within three working days after completing a work assignment to seek a new assignment or would be considered to have voluntarily quit employment. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled.

The claimant's last assignment was working at Warren Frozen Foods. The claimant was scheduled to work on December 4 and 6, 2004. She failed to work on either day and did not notify the employer regarding her absences. The employer left a message for the claimant on December 6, 2004 asking why she had failed to report to work. The claimant did not contact the employer again until December 13, 2004 and did not provide any explanation for her absences.

The claimant filed for and received a total of \$1,887.00 in unemployment insurance benefits for the weeks between November 28, 2004 and January 29, 2005.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The claimant voluntarily left employment without good cause attributable to the employer because she failed to report to work as scheduled without proper notice to the employer. In addition, the claimant is considered to have voluntarily quit employment without good cause attributable to the employer because she failed to contact the employer within three working days after she stopped reporting for her work assignment. The employer had properly advised her of that requirement when she was hired.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits effective December 5, 2004 and was overpaid \$1,887.00 in benefits for the weeks between November 28, 2004 and January 29, 2005.

DECISION:

The unemployment insurance decision dated January 24, 2005, reference 04, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$1,887.00 in unemployment insurance benefits, which must be repaid.

saw/tjc/pjs