

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE E KLEIN
Claimant

APPEAL NO. 07A-UI-06739-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADECCO USA INC
Employer

OC: 06/29/07 R: 01
Claimant: Respondent (2)

Section 96.5(1) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Adecco, filed an appeal from a decision dated June 29, 2007, reference 01. The decision allowed benefits to the claimant, Denise Klein. After due notice was issued, a hearing was held by telephone conference call on July 26, 2007. The claimant participated on her own behalf. The employer participated by Staffing Consultant Chris Delfosse.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Denise Klein was employed by Adecco from October 27, 2004 until May 25, 2007. Her last assignment began on February 2, 2007, at Toyota Financial Services and was originally expected to last until July 1, 2007, or longer.

On May 25, 2007, Toyota informed Adecco that the workload was much less than anticipated and the temporary workers were not needed. Staffing Consultant Chris Delfosse notified Ms. Klein by phone that she had been laid off but that other assignments might be found for her later. The claimant did not want to continue working for Adecco because she felt she had been lied to when the assignment did not last as long as originally anticipated. She did not contact the employer for other assignments and then moved to another location some 75 miles away from the Adecco office.

Denise Klein has received unemployment benefits since filing a claim with an effective date of May 27, 2007.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(2) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

The claimant did not choose to continue working through Adecco because of what she perceived to be dishonesty on the part of the employer when the assignment did not last as long as expected. The employer had no choice but to end the assignment at the request of the client company and cannot be held responsible that Toyota had overestimated its needs. In addition, Ms. Klein was also no longer available to accept assignments from Adecco when she moved out of the area. The record establishes the claimant did not have good cause attributable to the employer and she is disqualified.

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.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of June 29, 2007, reference 01, is reversed. Denise Klein is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. She is overpaid in the amount of \$1,616.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css