

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHERRY A LEFLORE
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 20A-UI-05412-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code section 96.3(7) – Overpayment of Benefits
PL116-136, § 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On June 6, 2020, Sherry Leflore (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 4, 2020 (reference 01) that determined claimant was disqualified from receiving unemployment insurance benefits.

A telephone hearing was held on July 8, 2020. The parties were properly notified of the hearing. The claimant participated personally. Advance Services Inc. (employer/respondent) participated by Risk Management Melissa Lewien.

Employer's exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause? Did the claimant timely request another job assignment?
- II. Was the claimant overpaid benefits?
- III. Is the claimant eligible for federal pandemic unemployment compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a temporary employee. Claimant's first day of employment was March 7, 2018. Claimant's most recent assignment began and ended on August 27, 2019. Claimant resigned from the most recent assignment because it was too difficult for her to physically perform the work. Claimant notified employer HR employee Maria Garcia on August 28, 2019 that she would not return to the assignment. Claimant did not request further assignment at that time or at another other time until November 26, 2019. Exhibit 1. Claimant signed for and received a copy of employer's end of assignment policy on March 5, 2018. Exhibit 2. Claimant had access to that policy at all times through the employee portal.

The unemployment insurance system shows claimant has received weekly benefits in the amount of \$186.00 for a total of seven weeks, from the benefit week ending April 18, 2020 and continuing through the benefit week ending May 30, 2020. The total amount of benefits paid to date is \$1,302.00.

The unemployment insurance system shows claimant has received Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$600.00 for a total of seven weeks, from the benefit week ending April 4, 2020 and continuing through the benefit week ending May 30, 2020. The total amount of FPUC benefits paid to date is \$4,200.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Iowa Workforce Development decision dated June 4, 2020 (reference 01) that determined claimant was disqualified from receiving unemployment insurance benefits is AFFIRMED.

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause? Did the claimant timely request another job assignment?

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. But the individual shall not be disqualified if the department finds that:

- j. (1) The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

- (2) To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

- (3) For the purposes of this paragraph:

- (a) "*Temporary employee*" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during

absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "*Temporary employment firm*" means a person engaged in the business of employing temporary employees.

Claimant voluntarily quit by failing to request an assignment within three days of her last assignment ending, in violation of employer's end of assignment policy. Claimant signed for and received a copy of employer's end of assignment policy on March 5, 2018. Claimant also had access to that policy at all times through the employee portal.

Claimant's argument that she was not actually aware of this policy is unavailing. Employer did its duty in providing the policy to claimant at the time of hire and making it available to her at all times. Claimant's failure to review that policy at the time she signed for it or at some later date does not render the policy inapplicable to her. Benefits must be denied.

II. Was the claimant overpaid benefits?

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) (a) 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 unemployment insurance system shows claimant has received weekly benefits in the amount of \$186.00 for a total of seven weeks, from the benefit week ending April 18, 2020 and continuing through the benefit week ending May 30, 2020. The total amount of benefits paid to date is \$1,302.00.

Because the administrative law judge affirms the decision finding claimant ineligible for benefits, the claimant has been overpaid benefits in the amount of \$1,302.00. Benefits shall be recovered. 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.

III. Is the claimant eligible for federal pandemic unemployment compensation?

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

The unemployment insurance system shows claimant has received Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$600.00 for a total of seven weeks, from the benefit week ending April 4, 2020 and continuing through the benefit week ending May 30, 2020. The total amount of FPUC benefits paid to date is \$4,200.00.

Because the claimant is disqualified from receiving regular unemployment insurance (UI) benefits, she is also disqualified from receiving FPUC benefits. Claimant has therefore been overpaid FPUC benefits in the amount of \$4,200.00. Claimant is required to repay those benefits.

DECISION:

The Iowa Workforce Development decision dated June 4, 2020 (reference 01) that determined claimant was disqualified from receiving unemployment insurance benefits is **AFFIRMED**. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.

Claimant has been overpaid benefits in the amount of \$1,302.00. Benefits shall be recovered. 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.

Claimant has been overpaid FPUC benefits in the amount of \$4,200.00. Claimant is required to repay those benefits.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

July 16, 2020
Decision Dated and Mailed

abd/sam

Note to Claimant:

This decision determine you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.