

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONNA G ROBINSON**  
Claimant

**APPEAL NO: 15A-UI-01037-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 12/28/14**  
**Claimant: Respondent (2)**

Iowa Code 96.5(1) – Voluntary Quit  
Iowa Code § 96.3(7) – Overpayment of Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's January 20, 2015 determination (reference 03) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had voluntarily quit for reasons that qualify her to receive benefits. The claimant did not respond to the hearing notice or participate at the February 18 hearing. Sarah Fiedler, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified receive benefits as of January 4, 2015, and has been overpaid benefits.

**ISSUES:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

Has the claimant been overpaid any benefits she has received since January 4, 2015?

If the claimant has been overpaid, is she required to pay back this amount or will the employer's account be charged the overpaid amount?

**FINDINGS OF FACT:**

The claimant registered to work for the employer and started working at an assignment on January 6, 2014. She only worked at this assignment. The last day the claimant worked at the assignment was December 23, 2014. The business where the claimant worked was closed December 24, 2014, through January 4, 2015. The client expected and scheduled employees, including the claimant, to return to work on January 5, 2015.

The claimant did not return to work on January 5, call or contact the employer to report she was unable to return to work. The claimant did not complete this assignment. She did not have any contact with the employer after December 23, 2014.

The claimant established a claim for benefits during the week of December 28, 2014. She filed claims for the weeks ending January 10 through February 21, 2015. She received her maximum weekly benefit amount of \$291 for each of these weeks.

Fiedler usually participates at fact-finding interviews, but was not available the day of the fact-finding interview. She provided the claims specialist with written documentation regarding the reasons for the claimant's employment separation. Fiedler also listed the phone number of another person to contact if the claims specialist had any questions. The person Fiedler listed was not contacted to provide additional information.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). The claimant and other employees were scheduled to return to work at this assignment on January 5, 2015. The claimant did not report to work, call the client or employer and did not contact the employer again about this assignment or another assignment. If the claimant had reported to work as scheduled on January 5, 2015, there was continuing work for her to do at that job assignment. For unemployment insurance purposes, the claimant quit this job when she failed to return work on January 5, 2015. When a claimant quits, she has the burden to establish she quits for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The claimant may have had compelling reasons for failing to return to work and quitting this job, but the facts do not establish she quit for reasons that qualify her to receive benefits. As of January 4, 2015, the claimant is not qualified to receive benefits.

If an individual receives benefits she 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). Based on this decision, the claimant is not legally entitled to receive benefits for the weeks ending January 10 through February 21, 2015. She has been overpaid a total of \$2037 in benefits.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)a, b. The evidence indicates the employer satisfied the participation requirement of the law. As a result, the claimant is legally responsible for paying back the overpayment.

**DECISION:**

The representative's January 20, 2015 determination (reference 03) is reversed. The claimant voluntarily quit, but she did not establish that she quit for reasons that qualify her to receive benefits. As of January 4, 2015, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible.

The claimant has been overpaid \$2037 in benefits she received for the weeks ending January 10 through February 21, 2015. The claimant is legally responsible for paying back this overpayment.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs