

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**KEON T LOWE**

Claimant

**QPS EMPLOYMENT GROUP INC**

Employer

**APPEAL NO. 21A-UI-03325-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/08/20**

**Claimant: Respondent (2R)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 15, 2021, reference 02, decision that held the claimant was eligible for benefits, provided he met all other eligibility requirements, and the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant was discharged on July 9, 2020 for no disqualifying reason. After due notice was issued, a hearing was held on March 23, 2021. The claimant did not provide a telephone number for the appeal hearing and did not participate. Mai Lor represented the employer and presented additional testimony through Kim Kramer. Exhibits 1 and 2 were received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits paid to the claimant. The administrative law judge took official notice of the fact-finding materials for the purpose of documenting the employer's participation in the fact-finding interview.

**ISSUES:**

Whether the claimant's separation from the temporary employment agency on or about July 9, 2020 was for good cause attributable to the employer.

Whether the claimant was overpaid benefits.

Whether the claimant must repay overpaid benefits.

Whether the employer's account may be charged.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: QPS Employment Group, Inc. is a temporary employment Agency. The claimant commenced his employment relationship with QPS on October 1, 2019. At that time, the employer had the claimant sign and 3-Day Reassignment Policy that obligated the claimant to contact the employer within three working days of completing an assignment to request a new assignment or be deemed to have voluntarily quit and risk being disqualified for benefits. The claimant electronically signed to acknowledge the policy and to acknowledge receipt of a copy of the signed document.

On July 8, 2020, the claimant began a full-time, temp-to-hire assembly work assignment at All State Industries. The work hours were 7:00 a.m. to 3:30 p.m., Monday through Friday. The assignment paid \$14.50 an hour. The claimant worked just one day in the assignment before the client business terminated the assignment, based on the claimant allegedly being away from his work area and allegedly taking photos in the workplace. On July 9, 2020, Kim Kramer, QPS Area Operations Manager, notified the claimant that the assignment was ended and not to return to the assignment. The claimant did not request another assignment at that time. The claimant next made contact with the employer on December 2, 2020 to request a new assignment.

The claimant had established an original claim for benefits that was effective September 15, 2019 and an additional claim for benefits that was effective April 19, 2020. The claimant had then reopened the claim effective April 26, 2020. The claimant made weekly claims for each of the weeks between April 26, 2020 and August 29, 2020 and received \$272.00 in regular benefits for each of those weeks. The weeks for which the claimant received benefits included the seven weeks between July 12, 2020 and August 29, 2020. The claimant received \$1,904.00 in regular benefits for that seven-week period. QPS is not a base period employer for purposes of the claim year the claimant established September 15, 2019 and has not been charged for benefits in connection with that claim year. On November 8, 2020, the claimant established a new claim year. QPS is a base period employer in connection with the new claim year, but has not yet been charged for benefits in connection with that new claim year.

On January 14, 2021, an Iowa Workforce Development Benefits Bureau deputy held a fact-finding interview that addressed the claimant's July 9, 2020 separation from the assignment and from the employment. QPS participated in the fact-finding interview through Mai Lor, Unemployment Insurance Specialist.

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

Iowa Code section 96.5(1)(j) 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.

Iowa Admin. Code r. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The evidence in the record establishes that the claimant voluntarily quit the QPS employment effective July 14, 2020 without good cause attributable to the employer, by failing to request a new work assignment within three working days of being removed from the All State Industries work assignment. The claimant had been appropriately advised in writing of his obligation to make such contact to request a new assignment. Effective July 12, 2020, the claimant is disqualified for benefits until the claimant works in and is paid wages for insured work equal to 10 times his weekly benefit amount. The employer's account will not be charged for benefits based on wages earned through July 8, 2020.

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 section 96.3(7)(a) and (b).

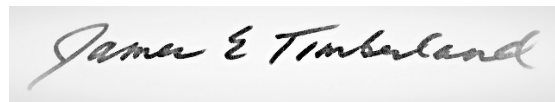
The claimant received \$1,904.00 in regular benefits for that seven-week period of July 12, 2020 and August 29, 2020, but this decision disqualifies the claimant for those benefits. The benefits represent an overpayment of benefits that the claimant must repay.

**DECISION:**

The January 15, 2021, reference 02, decision is reversed. The claimant voluntarily quit effective July 14, 2020 without good cause attributable to the employer by failing to contact the temporary employment firm within three days of completing an assignment to request a new assignment after being advised in writing of his obligation to make such contact. The claimant is overpaid \$1,904.00 in regular benefits for that seven-week period of July 12, 2020 and August 29, 2020 and must repay the overpaid benefits. The employer's account shall not be charged for benefits based on wages earned through July 8, 2020.

**REMAND:**

This matter is remanded to the Benefits Bureau for entry of an overpayment decision regarding the FPUC and LWAP benefits the claimant received for the period of July 12, 2020 through August 29, 2020.



---

James E. Timberland  
Administrative Law Judge

April 9, 2021  
Decision Dated and Mailed

jet/kmj

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA for the affected period, you will be required to repay the benefits you have received.**