

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL J YOUNG
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 16A-UI-04780-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/03/16
Claimant: Respondent (4)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-Finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the April 22, 2016 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 9, 2016. Claimant participated. Employer participated through human resources generalist Sarah Fiedler.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Has the claimant been overpaid unemployment insurance benefits and, if so, can the repayment of those benefits to the Agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant started with the employer on April 13, 2015 and was separated from the employer on October 22, 2015.

Claimant was last assigned temp-to-hire, full time as a heavy equipment operator at Maintenance Tech Services starting June 1, 2015. Claimant was hired full time by Maintenance Tech Services, effective October 23, 2015. Claimant left employment with the employer (TEAM STAFFING SOLUTIONS, INC.) to accept other employment at Maintenance Tech Services. Claimant continued to do the same job for Maintenance Tech Services.

The employer participated in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify claimant from receiving benefits, claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of the employer (TEAM STAFFING SOLUTIONS, INC., account number 303492-000) shall not be charged.

DECISION:

The April 22, 2016 (reference 01) decision is modified in favor of the appellant. Claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided claimant is otherwise eligible. The account of the employer (TEAM STAFFING SOLUTIONS, INC., account number 303492-000) shall not be charged.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/can