

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DWIGHT A BROWN
Claimant

QPS EMPLOYMENT GROUP INC
Employer

APPEAL 20A-UI-12227-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/24/20
Claimant: Respondent (4R)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The employer/appellant, QPS Employment Groups Inc., filed an appeal from the October 2, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 2, 2020. The claimant, Dwight A. Brown, did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The employer was represented by Jennifer Yang, unemployment coordinator. Jason Sheldahl also testified.

The administrative law judge took official notice of the administrative records. Employer Exhibit 1 was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant quit for other employment?
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any charges to the employer’s account be waived?
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: The claimant began employment on March 20, 2019 and worked on assignment at GNR Integration until May 26, 2020 when he quit to accept full-time employment with GNR Integration. Claimant could have remained employed as a temporary worker or could have requested a new assignment and other assignments were available.

Claimant subsequently permanently separated from GNR Integration Logistics (date unknown) and returned to QPS Employment. The issue of claimant's permanent separation from GNR Integration Logistics has not yet been addressed by the Benefits Bureau.

Claimant returned to QPS effective September 22, 2020 and worked on assignment at Wrench-N-Go until October 23, 2020. The issue of claimant's separation from QPS Employment Group Inc. effective October 23, 2020 has not yet been addressed by the Benefits Bureau.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$4,052.00, since filing a claim with an effective date of May 24, 2020. The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC).

The administrative record also establishes that the employer did participate in the fact-finding interview or make a witness with direct knowledge available for rebuttal. Employer responded to the written fact-finding by fax. Two copies were sent to the employer and employer replied on September 18 and 28, 2020 (Employer Exhibit 1, Yang testimony).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant quit for other employment.

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:

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 the claimant from receiving benefits, the 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 this employer shall not be charged.

The issues of the claimant's permanent separation from GNR Integration Services and his October 23, 2020 separation from QPS Employment Group are remanded to the Benefits Bureau for an initial investigation and decision.

Because claimant is allowed benefits and this employer is relieved of charges, the issue of overpayment and relief of charges are moot.

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...

Here, the claimant is allowed regular unemployment insurance (UI) benefits. Accordingly, this also allows claimant to receive Federal Pandemic Unemployment Compensation (FPUC).The employer is not charged for these federal benefits.

DECISION:

The October 2, 2020, (reference 01) unemployment insurance decision is modified in favor of the employer/appellant. The claimant quit the employment for other employment. Benefits are allowed, provided he is otherwise eligible. . This employer is relieved of charges. The claimant is eligible for FPUC, provided he is otherwise eligible.

REMAND:

The issues of the claimant's permanent separation from GNR Integration Services and his October 23, 2020 separation from QPS Employment Group are remanded to the Benefits Bureau for an initial investigation and decision.



Jennifer L. Beckman
Administrative Law Judge
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December 10, 2020
Decision Dated and Mailed

jlb/scn