

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTIONE S THOMAS**  
Claimant

**APPEAL NO: 13A-UI-07572-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEXAS ROADHOUSE HOLDINGS LLC**  
Employer

**OC: 05/19/13**  
**Claimant: Respondent (4)**

Section 96.5-1-g – Voluntary Quit/Benefit Re-qualification

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated June 19, 2013 reference 01 that held claimant is still employed part-time and eligible to receive benefits. A telephone hearing was held on August 22, 2013. The claimant participated. Dan Smederovac, Managing Partner, and Tom Kuiper, Representative, participated for the employer.

**ISSUE:**

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began work for the employer on September 27, 2012 as a full-time cook. He last worked on January 20, 2013. Claimant was subsequently employed by Perkins (ER #514501). His weekly benefit amount is \$134. The department record shows claimant earned \$4,123 wages for the 2nd quarter of 2013. He experienced a one-week temporary lay-off from Perkins, claimed for and received a weekly benefit of \$134 for the week ending May 25, and returned to employment.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge concludes claimant voluntarily quit employment on January 20, 2013, but re-qualified with Perkins by earning his ten times his weekly benefit amount (\$134 x 10 = \$1,340). Claimant is eligible for benefits and the employer's account is not charged.

**DECISION:**

The department decision dated June 19, 2013, reference 01, is modified. The claimant voluntarily quit on January 20, 2013 but has re-qualified for benefits with Perkins. Benefits are allowed, provided the claimant is otherwise eligible. The employer is relieved of liability.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs