

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PHILEMON GENSEE**  
Claimant

**IOWA STAFFING INC**  
Employer

**APPEAL 21A-UI-22601-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/22/21**  
**Claimant: Respondent (4-R)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
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:**

On October 8, 2021, Iowa Staffing, Inc. (employer) filed an appeal from the October 5, 2021, reference 01, unemployment insurance decision that allowed benefits based upon the determination Philemon Gensee (claimant) was discharged for not performing work to the employer's satisfaction, which is not disqualifying misconduct. The parties were properly notified about the hearing held by telephone on December 6, 2021, and consolidated with the hearing for appeal 21A-UI-22601-SC-T. The claimant did not respond to the hearing notice and did not participate. The employer participated through Alejandra Rocha, Office Manager. The employer's Exhibit 1 was admitted into the record. The administrative law judge took official notice of the claimant's wage history.

**ISSUES:**

Did the claimant work for this employer?  
Was the claimant discharged for disqualifying job-related misconduct?  
Has the claimant been overpaid unemployment insurance benefits and, if so, can the repayment of those benefits to the agency be waived and charged to the employer's account?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant applied for employment on August 27, 2021. The employer contacted him multiple times regarding an interview; however, he did not respond to their messages. The claimant did not perform work the employer.

The administrative record shows the claimant has three employers in his base period: Lithia Vaudm, Inc. who paid him wages in the second quarter of 2020; Envoy Air, Inc. who paid him wages during the fourth quarter of 2020 and the first quarter of 2021; and, Industrial Staffing Services (account number 374203) who paid him wages in the first and second quarters of 2021. Whether the claimant's separation from Industrial Staffing Services (account number 374203) is disqualifying has not been investigated or adjudicated by the Benefits Bureau.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge has reviewed the records and files herein and concludes that the representative's decision is modified in favor of the appellant. Benefits are allowed, pending the outcome of the remanded issue because the claimant never worked for this employer, and the employer's account will not be subject to charge because they did not pay any wages to the claimant during his base period.

Whether the claimant's separation from Industrial Staffing Services (account number 374203) qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.

**DECISION:**

The October 5, 2021, reference 01, unemployment insurance decision is modified in favor of the appellant as claimant never worked for this employer.

**REMAND:**

Whether the claimant's separation from Industrial Staffing Services (account number 374203) qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.



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Stephanie R. Callahan  
Administrative Law Judge

December 14, 2021  
Decision Dated and Mailed