

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEE J SMITH
Claimant

SEDONA STAFFING INC
Employer

APPEAL 20A-UI-01007-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/22/19
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:

On February 4, 2020, the employer filed an appeal from the January 28, 2020, (reference 01) unemployment insurance decision that allowed benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on February 19, 2020. Claimant did not register for the hearing and did not participate. Employer participated through unemployment benefits administrator Colleen McGuinty.

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 any 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: Employer is a staffing firm. Claimant began a temporary-to-hire assignment with Collis as a full-time laborer in Clinton, Iowa, on August 13, 2019. After 90 days, Collis wished to hire claimant as a permanent employee. Claimant separated from employer on October 17, 2019, to accept the position with Collis. Although claimant could have remained employed by employer, he chose to end the assignment and become a permanent employee of Collis.

Claimant worked and earned wages with Collis after separating from employer. Claimant apparently worked reduced hours during the last week of December 2019, as he filed for unemployment insurance benefits for that week only.

REASONING AND CONCLUSIONS OF LAW:

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

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. 871-23.43(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.

Because claimant is allowed benefits and employer will not be charged, the issues regarding overpayment of benefits are moot and will not be discussed further in this decision.

DECISION:

The January 28, 2020, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 237958) shall not be charged.



Christine A. Louis
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February 24, 2020
Decision Dated and Mailed

cal/scn