

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

CHAD A TESLIK	:	
	:	HEARING NUMBER: 20B-UI-11118
Claimant	:	
	:	
and	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
QPS EMPLOYMENT GROUP INC	:	
	:	
Employer	:	

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1, 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

Chad Teslik (Claimant) worked for QPS Employment Group last assigned to Crystal Distribution from June 10, 2020 to June 24, 2020. He texted the employer and said he was voluntarily leaving his employment because he wanted to work for People Ready doing day labor. He did work that job at People Ready and earned covered wages in that position. He subsequently experienced a period of unemployment and filed an initial claim for benefits during the week starting on June 21, 2020.

REASONING AND CONCLUSIONS OF LAW:

This case involves a voluntary quit. Iowa Code Section 96.5(1) states:

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.

Even where a claimant quits but without good cause attributable to the employer the claimant may nevertheless collect benefits under certain circumstances. One of these is where the quit is for the purpose of accepting other employment. On this issue the Code provides:

- 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 Code §96.5(1)(a). The rules of Workforce further explain:

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.

871 IAC 24.28(5).

The evidence shows that the Claimant did earn wages at the new job which he quit to take. This being the case the Claimant is **not** disqualified under Iowa Code §96.5(1)(a).

Finally, since QPS Employment Group was the employer whom the Claimant quit in order to take another job under the law **QPS Employment Group's account may not be charged** with benefits paid to the Claimant. Iowa Code §96.5(1)(a); 871 IAC 23.43(5)(no charge to prior employer when quit for other or better job).

The upshot is the Claimant is not denied benefits because of his quit at *QPS* but *QPS* does not have to pay for them.

Although the Claimant is not disqualified for quitting work at *QPS Employment Group*, this does not mean his claim will be unlocked. The records show that the Claimant also quit *Bertch Cabinet* in February of 2020 and was disqualified for that quit, and he did not appeal that decision. Any claim lock that is based on the *Bertch Cabinet* quit remains in place until the Claimant works in and is paid wages in excess of \$2,150 since quitting *Bertch Cabinet* back in February. It does appear at some point since February the Claimant has earned sufficient wages to requalify following the *Bertch Cabinet* quit. But we cannot tell from the records when this was. Furthermore, it appears that when the Claimant filed for benefits he reported zero wages, when in fact he was receiving covered wages from *Peopleready* and *Anytime Labor – Nebraska*. We therefore will remand this matter to Iowa Workforce, Benefits Bureau for an investigation and initial determination of whether the Claimant has requalified since his separation from *Bertch Cabinet*, and whether he has accurately reported his wages when filing his claims for benefits.

DECISION:

The administrative law judge's decision dated November 3, 2020 is **REVERSED**. The Employment Appeal Board concludes that the Claimant quit. The Claimant's quit, however, was not disqualifying. Accordingly, the Claimant is **allowed benefits provided** the Claimant is otherwise eligible.

Benefits relating to wage credits earned with QPS Employment Group shall be charged to the unemployment compensation balancing fund under the authority of Iowa Code §96.5(1)(a).

The matter is furthermore **REMANDED** to Iowa Workforce Development, Benefits Bureau for an investigation and initial determination of whether the Claimant has requalified since his separation from *Bertch Cabinet*, and whether he has accurately reported his wages when filing his claims for benefits.

Ashley R. Koopmans

James M. Strohman

Myron R. Linn

RRA/fnv