

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

YVONNE L ATUNYI

Claimant

and

QPS EMPLOYMENT GROUP INC

Employer

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HEARING NUMBER: 20B-UI-10714

**EMPLOYMENT APPEAL BOARD
DECISION**

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, 96.5-1J

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION IN THE EMPLOYER'S FAVOR BUT WITHOUT EFFECT ON THE CLAIMANT:**

FINDINGS OF FACT:

The Administrative Law Judge's findings of fact are adopted by the Board as its own, with the following additions.

The Claimant voluntarily left her work with the Employer on November 2, 2020 for personal reasons not related to the employment at the Employer.

The Claimant worked in and was paid wages of \$4,324 with employers other than QPS Employment Group, Inc. in the first quarter of 2020. The Claimant's weekly benefit amount is \$285.

REASONING AND CONCLUSIONS OF LAW:

The Administrative Law Judge's reasoning and conclusions of law are adopted by the Board as its own, with the following additions.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: Voluntary Quitting. If the individual has left work voluntarily without **good cause attributable to the individual's employer**, if so found by the department.

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Here the evidence shows that the Claimant quit QPS Employment Services in November of 2019. The Administrative Law Judge held as much. In fact, the ruling that the Claimant was separated from QPS back in 2019 is key to the Administrative Law Judge's ruling that the Claimant should have been given a second written 3-day notice at the time of *rehire* in 2020. QPS is a base period employer, and also the most recent Employer. This means the Administrative Law Judge's decision finds a separation from a base period employer, but fails to adjudicate it. The Administrative Law Judge only adjudicated the separation from QPS as the most recent employer. This 2020 separation is not disqualifying. But today we find that since the Claimant left in 2019 for personal reasons, then the 2019 separation from QPS **is** disqualifying. This separation occurs in the base period of this claim.

Although the Claimant's quit is disqualifying, the disqualification is only in effect until the Claimant requalified. The requalification period runs from the date of the separation. "In order to meet the ten times the weekly benefit amount in insured work requalification provision, ...[s]ubsequent to leaving or refusing work, the individual shall have worked in (except in back pay awards) and been paid wages equal to ten times the claimant's weekly benefit amount." 871 IAC 23.43(8). As we have found the Claimant quit back in 2019. In the first quarter of 2020 Claimant worked in and was paid covered wages of \$4,324 with employers other than QPS. This is more than ten times the WBA of \$285. This means with the separation in 2019 the Claimant has requalified before filing for benefits in May of 2020.

The Claimant has requalified for benefits. **Benefits are thus allowed even though the 2019 quit was disqualifying. The Employer shall not be charged** for any benefits paid since "[a]n employer's account shall not be charged with benefit payments to an eligible claimant who quit such employment without good cause attributable to the employer ... but [such payments] shall be charged to the balancing account." 871 IAC 24.43(8)(b); *See also* Iowa Code §96.7(2)(b).

DECISION:

The decision of the Administrative Law Judge is **MODIFIED IN THE CLAIMANT'S FAVOR**. The Claimant is not disqualified based on the separation from QPS Employment Services in 2020, as discussed by the Administrative Law Judge. The Claimant did voluntarily leave work at QPS Employment Services in November of 2019 without good cause attributable to QPS Employment Services, but the Claimant has since that time requalified for benefits. Since this requalification predates the Claimant's benefits year the claim **shall not be locked** as a result of the separation with QPS Employment Services. Of course, QPS Employment Services Group **will not be chargeable** for benefits paid on this claim, nor will it be chargeable for benefits paid in the future on a subsequent benefit year claim, if any were to be filed.

Ashley R. Koopmans

James M. Strohman

Myron R. Linn

RRA/fnv