

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CODY C AIELLO
Claimant

WHELAN EVENT STAFFING SERVICES INC
Employer

APPEAL 17A-UI-00301-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/11/16
Claimant: Respondent (4R)

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

The employer filed an appeal from the December 29, 2016, (reference 01) unemployment insurance decision that allowed benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on January 31, 2017. Claimant did not participate. Employer participated through human resource manager Alicia Olson.

ISSUES:

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?
Can 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: Claimant began working for employer on August 30, 2016. Claimant works for employer as a part-time event staff member. Claimant is currently employed by employer. Employer utilizes claimant's services on an as needed basis as employer's business is event driven. The last day claimant worked for employer was December 8, 2016. Since that time, employer has had difficulty getting in touch with claimant. However, employer spoke with claimant last week and plans to continue to offer him work when available. Claimant agreed to continue accept work when available.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant has not been separated from employer. Thus, this matter must be remanded for an initial determination on whether claimant is able and available to work, is eligible for partial unemployment benefits, and whether employer's account is subject to charge.

DECISION:

The December 29, 2016, (reference 01) unemployment insurance decision is modified in favor of appellant. Claimant has not been separated from employment with this employer.

REMAND:

This matter is remanded for an initial determination on whether claimant is able and available to work, is eligible for partial unemployment benefits, and whether employer's account is subject to charge.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
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Decision Dated and Mailed

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