

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI	
<b>EARL A FRANKLIN</b> Claimant	<b>APPEAL NO. 18A-UI-07492-S1-T</b>
<b>ELS OF FLORIDA INC</b> Employer	<b>ADMINISTRATIVE LAW JUDGE DECISION</b>
	<b>OC: 05/27/18</b> <b>Claimant: Respondent (4)</b>

Section 96.5-1-j – Separation from Temporary Employer  
Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

ELS of Florida (employer) appealed a representative's July 3, 2018, decision (reference 01) that concluded Earl Franklin (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 30, 2018. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Jim Clyde, Branch Manager. Exhibit D-1 was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services off and on from January 31, 2017, through July 6, 2018. His last assignment was at A-One Disposal where he was employed one day per week as a laborer. On July 11, 2018, the claimant notified the employer he was resigning to take full-time employment with Aerotek. The employer confirmed that the claimant was assigned to work full-time hours at CHEP through Aerotek. Continued work was available had the claimant not resigned.

The claimant filed for unemployment insurance benefits with an effective date of May 27, 2018. The employer provided the name and number of Kathy O'Leary as the person who would participate in the fact-finding interview on June 28, 2018. The fact finder called Ms. O'Leary but she was not available. The fact finder left a voice message with the fact finder's name, number, and the employer's appeal rights. The employer did not respond to the message.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the benefits are allowed after the claimant's separation from work, provided he is otherwise eligible.

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. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) 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.

The claimant left his position with the employer to work for another employer. When an employee quits work to take other employment, he is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. He voluntarily quit without good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible. The employer will not be charged.

**DECISION:**

The representative's July 3, 2018, decision (reference 01) is modified in favor of the appellant. The claimant voluntarily left work without good cause attributable to the employer. The claimant is not disqualified from receiving unemployment insurance benefits because he quit to take other employment. The employer will not be charged. Benefits are allowed, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs