

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**DERRICIO R CALHOUN**  
Claimant

**PERSONNEL STAFFING GROUP LLC**  
Employer

**APPEAL 18A-UI-01223-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/17/17**  
**Claimant: Respondent (4R)**

---

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(1)g – Voluntary Quitting - Requalification  
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:**

Personnel Staffing Group, LLC (employer) filed an appeal from the January 18, 2018, reference 03, unemployment insurance decision that allowed benefits based upon the determination Derricio R. Calhoun did not voluntarily quit but was discharged and the employer failed to provide evidence that he was discharged for willful or deliberate misconduct. Hearing notices were sent to the parties at their address of record. The claimant's hearing notice was not returned as undeliverable but other documents mailed to his address were returned as undeliverable. The documents were then sent to the claimant's address identified on the fact-finding records. As of the date of the hearing, those documents have not been returned. A telephone hearing was held on February 19, 2018. The claimant did not respond to the hearing notice and did not participate. The employer participated through Human Resource Coordinator Stacy Navarro and Operations Manager Cassie Dilly. The Employer's Exhibit 1 was admitted into the record.

**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: The claimant was employed in a temporary full-time position as a Laborer with the employer's client Quad City Freight beginning on March 27, 2017, and was separated from employment on October 9, 2017, when he was hired by the client as a permanent employee. The claimant did

not have any contact with the employer until December 14, 2017, when he called to see if it had any work available.

The claimant filed his claim for benefits effective December 17, 2017 and his weekly benefit amount is \$283.00. He identified the employer as his last employer. The administrative record shows the claimant's last employer to pay him wages was Quad City Human Resource (account 303191) who paid him \$4,680.00 in the fourth quarter of 2017. A notice of claim was not mailed to Quad City Human Resource and no determination has been made with regard to his separation from that employer.

The administrative record reflects that the claimant has received unemployment benefits in the amount of \$1,981.00, since filing a claim with an effective date of December 17, 2017, for the seven weeks beginning December 31, 2017 and ending February 17, 2018. The administrative record also establishes that the employer did not participate in the fact-finding interview, make a first-hand witness available for rebuttal, or provide written documentation that, without rebuttal, would have resulted in disqualification.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer but has since requalified for benefits. Benefits are allowed, provided the claimant is otherwise eligible.

Iowa Code section 96.5(1)g provides:

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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant's separation would be disqualifying; however, based on information contained in the administrative record, the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed, provided the claimant is otherwise eligible, and the account of the employer (account number 535810) shall not be charged. As benefits are allowed, the issue of overpayment is moot.

The issue of whether the claimant's separation from Quad City Human Resources (account number 303191) qualifies him for unemployment insurance benefits is remanded to the Benefits Bureau for an initial investigation and determination.

**DECISION:**

The January 18, 2018, reference 03, unemployment insurance decision is modified in favor of the appellant. The claimant quit without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. As benefits are allowed, the issue of overpayment is moot. The account of the employer shall not be charged.

**REMAND:**

The issue of whether the claimant's separation from Quad City Human Resources (account number 303191) qualifies him for unemployment insurance benefits is remanded to the Benefits Bureau for an initial investigation and determination.

---

Stephanie R. Callahan  
Administrative Law Judge

---

Decision Dated and Mailed

src/scn