

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

KEISHA M PERRIN

Claimant

APPEAL NO. 12A-UI-01212-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES LLC

Employer

OC: 12/18/11

Claimant: Respondent (4-R)

Section 96.5(1)g – Quit/Requalification

STATEMENT OF THE CASE:

The employer, Axcless Staffing Services LLC (Axcless), filed an appeal from a decision dated January 27, 2012, reference 01. The decision allowed benefits to the claimant, Keisha Perrin. After due notice was issued a hearing was held by telephone conference call on March 1, 2012. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by On Site Manager Dennis Penosh and was represented by TALX in the person of Tom Kuiper.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Keisha Perrin was employed by Axcless from January 8 until April 1, 2011. She was assigned as a packer at the client company Rock Tenn. Her last day of work was March 24, 2011, and she was a no-call/no-show to work after that date. The assignment is ongoing through the current date. The employer considered her a voluntary quit effective April 1, 2011.

Ms. Perrin filed a claim for unemployment benefits with an effective date of December 18, 2011. Her weekly benefit amount is \$176.00. The records of Iowa Workforce Development indicate she had earned at least ten times her weekly benefit amount subsequent to her separation from Axcless but prior to filing her claim for benefits.

The claimant had a prior claim effective December 19, 2010, and filed additional claims July 17 and August 14, 2011. She received benefits during that time period.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 quit Axxess without good cause attributable to the employer. This is a disqualifying separation. But she has requalified by earning at least ten times her weekly unemployment benefit amount subsequent to the separation for her current benefit year.

Because the separation occurred during a prior benefit year she is disqualified for benefits on that claim effective the week ending April 2, 2011.

Iowa Code § 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This

subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of January 27, 2012, reference 01, is modified in favor of the appellant. Keisha Perrin is qualified for benefits effective with the current claim effective December 18, 2011, provided she is otherwise eligible.

She is disqualified after her separation from this employer on April 1, 2011, and benefits are denied on the prior claim until she has earned ten times her weekly benefit amount. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs