

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVE BURLINGAME

Claimant

APPEAL NO. 07A-UI-07009-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON INDUSTRIAL SERVICES

Employer

**OC: 06/17/07 R: 02
Claimant: Respondent (4)**

871 IAC 23.43(9) - Relief of Charges

STATEMENT OF THE CASE:

Jacobson Industrial Services (employer) appealed an unemployment insurance decision dated July 10, 2007, reference 01, which held that Steve Burlingame (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 2, 2007. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted and, therefore, did not participate. The employer participated through Liz Madison, Account Manager. Employer's Exhibits One through Three were admitted into evidence. Based on the evidence, the arguments of the party and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer's account may be relieved of charges.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time machine operator for this staffing firm from February 2, 2004 through August 2, 2004 and from October 4, 2005 through December 28, 2005. He voluntarily quit his position in 2004 but began working again in 2005. The employer sent the claimant a warning letter for poor attendance on December 14, 2005. Since starting his most recent assignment two months earlier, the claimant was absent six days, tardy five days and left early four days. He was only working a four-day work week and the employer advised him his absences were not acceptable. The claimant appeared in the employer's office on December 23, 2005 stating that he had a possible appendicitis. The employer advised him he would need to provide the employer with a doctor's release before he could return to work as a machine operator. The claimant went to the employer's office on December 27, 2005 stating that he was expected to be able to return to work on December 28, 2005 but the employer again advised him he had to provide a doctor's release. The claimant stated he did not have one but would get one. However, he returned to work on the following day without a medical release. He was sent home and the employer contacted him again to

advise him the employer needed the medical release or the claimant would be released from his assignment. The claimant responded, "Good" and never contacted the employer again.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer's account may be relieved of charges. The judge concludes it should be.

871 IAC 23.43(9) provides in part:

(9) Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code § 96.20, will be liable for charges for benefits paid by the out-of-state paying state, but no reimbursement so payable shall be charged against a contributory employer's account for the purpose of section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and that such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim....

The employer has established sufficient evidence that the claimant's separation was disqualifying and no benefits would be paid on an Iowa claim. Therefore, the employer's account may be relieved of charges under the provisions of the above Administrative Code section.

DECISION:

The unemployment insurance decision dated July 10, 2007, reference 01, is modified in favor of the appellant. The employer's account may be relieved of charges.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css