

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARK D VALENTINE

Claimant

JAM EQUITIES OF ALTOONA, LLC

Employer

APPEAL 20A-UI-13675-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/14/20

Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

PL 116-136, Sec. 2107 – Pandemic Emergency Unemployment Compensation

STATEMENT OF THE CASE:

Employer filed an appeal from the October 22, 2020 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was scheduled for December 31, 2020, at 11:00 a.m. Claimant did not register to participate. Employer participated by written statement in lieu of offering live testimony. Therefore, no hearing was held. Employer's written statement is admitted as Employer's Exhibit 1. Official notice is taken of the administrative record.

ISSUES:

Whether claimant's separation was a layoff due to lack of work.

Whether claimant was overpaid benefits.

Whether claimant should repay those benefits and/or whether employer should be charged based upon its participation in the fact-finding interview.

Whether claimant is eligible for Federal Pandemic Unemployment Compensation (FPUC).

Whether claimant is eligible for Pandemic Emergency Unemployment Compensation (PEUC).

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for unemployment insurance benefits effective June 14, 2020. Claimant earned wages from DPM Altoona, LLC (account # 523018-000) during his base period. Agency records show that DPM Altoona was sold or transferred to JAM Equities of Altoona, LLC (account # 623530-000) on September 10, 2019. On January 15, 2020, Iowa Workforce Development (IWD) determined JAM Equities of Altoona was a successor business and liable for DPM Altoona's debts to IWD. The January 15, 2020 decision needed to be appealed within 30 days. The decision was not appealed and became final agency action on February 15, 2020.

On October 22, 2020, a decision (reference 01) was issued by IWD finding claimant eligible for unemployment insurance benefits because he was laid off due to lack of work. Employer has presented no evidence regarding claimant's separation from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.6(2) provides that an employer has the burden of proving that the claimant is disqualified for benefits by establishing that claimant voluntarily quit his employment or that claimant was discharged for disqualifying job-related misconduct. See also Iowa Admin. Code r. 871-23.55(1); *Irving v. Employment Appeal Board*, 883 N.W.2d 179, 210 (Iowa 2016) (employer has the burden of proving a claimant's departure from employment was voluntary); *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982) (employer has the burden of proving disqualifying job misconduct). Employer has produced no evidence regarding claimant's separation from employment. Accordingly, the October 22, 2020 decision must be affirmed. Claimant was laid off due to lack of work. Benefits are allowed provided claimant is otherwise eligible.

Because claimant's separation from employment is not disqualifying, the issues of overpayment, repayment and chargeability are moot. Because claimant is eligible for regular unemployment insurance benefits, claimant is also eligible for Federal Pandemic Unemployment Compensation. See PL 116-136 §2104(B).

DECISION:

The October 22, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant was laid off due to lack of work. Benefits are allowed provided claimant is otherwise eligible. The issues of overpayment, repayment and chargeability are moot. Claimant is eligible for Federal Pandemic Unemployment Compensation.



Adrienne C. Williamson
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January 28, 2021
Decision Dated and Mailed