

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRAE VAN TASELL
Claimant

AGRI-INDUSTRIAL PLASTICS CO
Employer

APPEAL 23A-UI-08773-LJ-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 08/20/23
Claimant: Respondent (5R)

Iowa Code § 96.5(1) – Voluntary Quit from Employment
Iowa Admin. Code r. 871-23.19 – Employer/Employee Relationship

STATEMENT OF THE CASE:

On September 14, 2023, putative employer Agri-Industrial Plastics Company filed an appeal from the September 11, 2023 (reference 01) unemployment insurance decision that determined claimant was eligible for benefits after a separation from employment with the company. The parties were properly notified of the hearing. A telephonic hearing was scheduled for 10:00 a.m. on Friday, September 29, 2023. However, the employer’s appeal and the administrative record included sufficient information for the administrative law judge to render a decision without taking testimony. No hearing was held.

ISSUE:

Did the claimant work for this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The administrative record reflects that claimant never worked for business entity Agri-Industrial Plastics Company and has no wage records with this business entity. The correct employer is QPS Employment Group Inc. (account number 362504), a temporary employment firm that places its employees at worksites including Agri-Industrial Plastics. Claimant’s wage record shows wages in his lag quarter with employer QPS Employment Group Inc. No wages appear with Agri-Industrial Plastics.

REASONING AND CONCLUSIONS OF LAW:

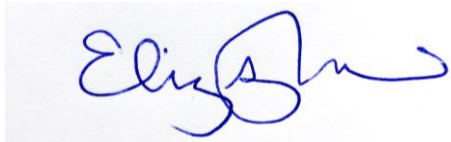
The administrative law judge has reviewed the records and files herein and concludes that the representative’s decision shall be modified without prejudice to either party because claimant never performed services for this business entity either as an employee or as an independent contractor. Iowa Admin. Code r. 871-23.19.

This matter will be remanded for the IWD Benefits Bureau to issue a notice of claim to QPS Employment Group and determine whether a fact-finding interview is necessary.

DECISION:

The September 11, 2023, (reference 01) unemployment insurance decision is modified without prejudice to either party as claimant never worked for this business entity.

REMAND: The separation issue related to actual employer QPS Employment Group Inc. (account number 362504) as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development a notice of claim to be sent to the employer.



Elizabeth A. Johnson
Administrative Law Judge

October 3, 2023
Decision Dated and Mailed

LJ/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.