

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**POTIQUE M JOHNSON**  
Claimant

**AMANA NORDSTROM INC**  
Employer

**APPEAL 17A-UI-04000-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/19/17**  
**Claimant: Respondent (4)**

---

Iowa Code § 96.5(1)i – Voluntary Quitting/Business Sale  
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:**

The employer filed an appeal from the April 5, 2017 (reference 01) unemployment insurance decision that allowed benefits based upon a determination that claimant was laid off due to a lack of work. The parties were properly notified of the hearing. A telephone hearing was held on May 9, 2017. The claimant, Potique M. Johnson, did not register a telephone number at which to be reached and did not participate in the hearing. The employer, Amana Nordstrom, Inc., participated through Doug Hargrave, President. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Did the claimant continue working for the acquiring or successor employer?  
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: Claimant was employed full time, most recently as the General Manager, from November 2015 until January 19, 2017, when the employer sold its hotel. Claimant was immediately rehired by the hotel's new owners, Gothic River Lodging, and Hargrave testified that claimant worked for the new employer until mid-April 2017. That subsequent separation has been determined by the Benefits Bureau in the unemployment insurance decision dated April 13, 2017 (reference 02).

The administrative record shows that claimant has not received any benefits since filing a claim with an effective date of March 19, 2017. The employer participated in the fact-finding interview.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant continued working for the acquiring employer.

Iowa Code § 96.5-(1)-i 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:

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3. However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the benefits paid which are based on the wages paid by the transferring employer shall be charged to the unemployment compensation fund provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph "b". Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant was employed by this company, which was sold, and continued employment with the new employer. Accordingly, benefits are allowed, provided the claimant is otherwise eligible, and the account of this former employer shall not be charged. As claimant has not received any benefits since separating from this employer, the issues of overpayment, repayment, and chargeability are moot.

**DECISION:**

The April 5, 2017 (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant continued working for the new owner of the business and was subsequently separated. Benefits are allowed, provided the claimant is otherwise eligible. The account of this former employer (account number 065576) shall not be charged. The issues of overpayment, repayment, and chargeability are moot.

---

Elizabeth A. Johnson  
Administrative Law Judge

---

Decision Dated and Mailed

lj/rvs