

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DAN R JENKINS**  
Claimant

**PIGOTT INC**  
Employer

**APPEAL 20A-UI-01854-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/09/20**  
**Claimant: Respondent (4)**

Iowa Code § 96.7(2)a(2) Charges – Same base period employment

**STATEMENT OF THE CASE:**

On February 28, 2020, Pigott Inc. (employer) filed an appeal from the February 25, 2020 (reference 01) unemployment insurance decision that determined Dan Jenkins (claimant) was eligible to receive unemployment insurance benefits.

A telephone hearing was held on March 17, 2020. The parties were properly notified of the hearing. Employer participated by Director of Installation and Service Dave Edaburn. Claimant did not register a number for the hearing and did not participate.

Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Was the claimant overpaid benefits? Should claimant repay benefits or should employer be charged due to employer participation in fact finding?

**FINDINGS OF FACT:**

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

Claimant works for employer on a temporary basis. His first day of employment was November 8, 2019. At the time of his hire, the parties agreed to a six-month contract during which claimant would work as needed. There was no guarantee of minimum hours, and he would never work more than 37 hours per week. There has been no separation. Claimant continues to be employed there on a temporary, as-needed basis.

A February 25, 2020 (reference 03) unemployment insurance decision determined claimant was currently employed with employer in the same way as before he filed his current claim.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the February 25, 2020 (reference 01) unemployment insurance decision is MODIFIED in favor of appellant. Claimant is eligible to receive benefits effective February 9, 2020, provided he meets all other eligibility requirements. Claimant must report wages during any weeks claimed. Because claimant is still employed with employer in the same way as before he filed his current claim, employer is relieved of charges for any benefits paid.

Iowa Code section 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

Claimant has not been separated from employment. Claimant continues to be employed by employer on a temporary, as-needed basis. This was the arrangement the parties agreed to at the time of hire. Claimant continues to be employed with employer in the same way as before he filed his current claim. A February 25, 2020 (reference 03) unemployment insurance decision determined as much.

Claimant is not disqualified from receiving benefits and is eligible for benefits, provided he meets all other eligibility requirements. However, because claimant is still employed with employer in the same way as before he filed his current claim, employer is relieved of charges for any benefits paid.

Because claimant has not been separated from employment, the issues identified in the notice of appeal and listed above need not be addressed.

**DECISION:**

The February 25, 2020 (reference 01) unemployment insurance decision is MODIFIED in favor of appellant. Claimant is eligible to receive benefits effective February 9, 2020, provided he meets all other eligibility requirements. Claimant must report wages during any weeks claimed. However, because claimant is still employed with employer in the same way as before he filed his current claim, employer is relieved of charges for any benefits paid.

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Decision Dated and Mailed

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