STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellant

R.A.A.C. Docket No. 22-00473

vs.

Referee Decision No. 0093294990-04

Employer/Appellee

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for disposition of the claimant's appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a referee's decision holding the claimant disqualified from receipt of regular state reemployment assistance benefits on the grounds that she quit without good cause attributable to the employer, and that she received benefits to which she was not entitled and is liable to repay.

Pursuant to the appeal filed in this case, the Reemployment Assistance Appeals Commission has conducted a complete review of the evidentiary and administrative record and the referee's decision. *See* §443.151(4)(c), Fla. Stat. The Commission's review is generally limited to the evidence and issues before the referee and contained in the official record.

On appeal to the Commission, evidence was submitted that was not previously presented to the referee. The parties were advised prior to the hearing that the hearing was their only opportunity to present all of their evidence in support of their case. Florida Administrative Code Rule 73B-21.011 provides that the Commission can consider newly discovered evidence only upon a showing that it is material to the outcome of the case *and* could not have been discovered prior to the hearing by an exercise of due diligence. The Commission did not consider the additional evidence because it does not meet the requirements of the rule. Our ruling does not preclude the parties from submitting this or other evidence for any future hearings.

The issue before the Commission is whether the claimant voluntarily left work without good cause within the meaning of Section 443.101(1), Florida Statutes.

The referee made the following findings of fact:

> The Claimant filed for reemployment assistance benefits with an effective date of August 22, 2021, establishing a weekly benefit amount of $275. The Claimant began working for [the employer] on January 11, 2021, as a training specialist. During the Plaintiff's employment the Claimant had multiple unpleasant experiences. The Claimant was treated aggressively by staff members of the employer. The Claimant complained about the incidents to her immediate supervisor. Nothing was done about the Claimant's complaints. The Claimant did not escalate these complaints. The Claimant was under the impression that these complaints would be forwarded to the appropriate party. Company policy required the Claimant to follow a chain of command regarding complaints. The Claimant was required to reach out to Human Resources if she had a complaint. This policy was outlined in the orientation [paperwork], which the Claimant acknowledged receiving and signing. The Claimant separated from the employer on May 17, 2021. The Claimant claimed and received benefits for the weeks ending October 30, 2021 to November 13, 2021.

Based on these findings, the referee held the claimant disqualified from receipt of benefits and overpaid because she voluntarily left work without good cause attributable to the employing unit. Upon review of the record and the arguments on appeal, the Commission concludes the case must be remanded because a key finding of fact is not supported, procedural errors must be cured, the record was not sufficiently developed, and conflicts in evidence were not properly addressed.

Legal and Factual Background

Section 443.101(1)(a), Florida Statutes, provides that an individual shall be disqualified from receipt of benefits for voluntarily leaving work without good cause attributable to the employing unit. Good cause is "that cause attributable to the employing unit which would compel a reasonable employee to cease working." §443.101(1)(a)1., Fla. Stat. *See also Uniweld Products, Inc. v. Industrial Relations Commission*, 277 So. 2d 827, 829 (Fla. 4th DCA 1973). "An employer's failure to provide its employees with a tolerable work environment has been found to be good cause for leaving employment attributable to the employer." *Yaeger v. Florida Unemployment Appeals Commission*, 786 So. 2d 48, 53 (Fla. 3d DCA 2001).

Moreover, even if the employee arguably has "good cause" to leave his or her employment, he or she may be disqualified from benefits based on a failure to expend reasonable effort to preserve his or her employment. *See, e.g., Borakove v. Unemployment Appeals Commission,* 14 So. 3d 249, 251 (Fla. 1st DCA 2009) (holding the claimant voluntarily quit without good cause when he resigned due to stress and his belief that he was not meeting performance expectations without exercising "due diligence in attempting to maintain employment")*; Lawnco Services, Inc. v. Unemployment Appeals Commission,* 946 So. 2d 586, 588-89 (Fla. 4th DCA 2006) (holding the claimant voluntarily left work without good cause when he quit due to dissatisfactions with his pay without first bringing his concerns to the employer's attention or making any other reasonable effort to preserve his employment)*; Glenn v. Unemployment Appeals Commission*, 516 So. 2d 88, 89-90 (Fla. 3d DCA 1987) (holding the claimant voluntarily left work without good cause when he chose not to avail himself of the employer's procedure permitting him to respond in writing to a disciplinary action report recommending his dismissal).

The claimant has the burden of proving he or she left employment with good cause. *See, e.g., Willick v. Unemployment Appeals Commission,* 885 So. 2d 440, 442 (Fla. 2d DCA 2004).

In this case, the claimant worked for the employer for less than six months (from January 11, 2021, through May 27, 2021). The claimant presented allegations of several incidents: an event that happened in front of her supervisor; a comment the supervisor made during a conversation that referenced the Black Lives Matter movement; an event that occurred during an offsite training, of which her supervisor was aware; and issues that other individuals in the office were having with the supervisor. The claimant also asserted that the employer did not give her a promised evaluation and raise after 90-days of employment and did not promptly relay when an individual in the office presented with COVID-19.

The employer's witness, the human resources manager, was present for the claimant's onboarding and denied a raise was promised. She also refuted the claimant's characterization of the work environment, although testimony indicates she worked at a different location.

It was undisputed that the claimant did not personally contact the human resources manager prior to tendering her resignation. The referee's analysis of the case focused on the claimant's efforts to preserve her employment prior to resigning.

The Referee's Findings and the Employer's Anti-Harassment Policy

The referee's finding that the employer's policy required the claimant to reach out to human resources and that company policy required the claimant to follow a chain of command regarding complaints is not an accurate recitation of the written policy that was provided by the employer for the second hearing. Although the employer's human resources manager testified that the policy requires employees to bring complaints to her office, under "Reporting an Incident of Harassment, Discrimination or Retaliation," the policy states "Individuals who believe that they have been the victim of such conduct should discuss their concerns with their immediate Supervisor, Human Resources, *or* other manager." (Emphasis added.) Then the policy directs the employees to see the complaint procedure. Under "Informal Procedure" the policy states, "If for any reason an individual does not wish to address the offender directly or if such action does not successfully end the offensive conduct, the individual should notify his/her immediate Supervisor, Human Resources, or other manager," and then details what those individuals may do. Under "Formal Procedure" the policy states, "As noted above individuals who believe they have been the victims of conduct prohibited by this policy statement or believe they have witnessed such conduct should discuss their concerns with Human Resources or a Supervisor." The policy goes on to state, "If a party to a complaint does not agree with its resolution, the party *may* appeal to the Executive Director." It further states that one with questions or concerns about the policy *should* talk with human resources.

While the employer may have intended for the policy to require the escalation of any complaints of harassment, the use of the word "or" presents an employee with a choice regarding to whom they present such complaints. Thus, an analysis of whether the claimant made reasonable efforts to preserve her employment in light of the policies as written, and/or in light of standard practices of most individuals, must be completed. However, before such analysis can be completed several procedural errors must be cured.

Procedural Error

First, although the employer's documentary submission was discussed during the appeals hearing, the employer's policy, and other relevant documents (such as the claimant's resignation letter),[1] were neither authenticated nor entered as exhibits. As the policies and resignation letter are material to the case,

[1] The copy of the resignation letter attached to the notice of hearing is missing the right most portion of each page, such that the entirety of the letter cannot be discerned. Consequently, a complete version of the resignation letter should be supplied prior to the next hearing.

authentication of the documents must be completed. *See* Fla. Admin. Code R. 73B-20.024(4)(e) ("All documents introduced as evidence shall be labeled and certified by the appeals referee as being the actual document received or a true and correct photocopy thereof"). *See also* R.A.A.C. Order No. 15-03683 at pgs. 2-3 (November 9, 2015).[2]

Second, at the outset of the second hearing, the claimant referenced wanting to provide emails from individuals who had the same issues while working for the employer, but she explained that she did not know how to provide them for the hearing. The claimant then made a somewhat equivocal statement about whether the documents were necessary and asserted she wanted to proceed. The referee adjourned the hearing without confirming whether the claimant wanted to provide documentary evidence.

In light of the need for a supplemental hearing, the claimant must be given the opportunity to present additional documents for consideration. The notice of hearing and appeals information pamphlet, provided with each notice of hearing, give detailed information on how one should proceed if they would like documentary evidence considered for the hearing. In order for documents to be considered, they must be delivered to the appeals referee and any other named parties on the notice of hearing 24 hours in advance of the hearing, excluding weekends and holidays that immediately precede the day of the hearing. *See* Fla. Admin. Code R. 73B-20.015(1). Should the claimant's documents consist of statements from non-testifying witnesses, the referee must complete a residual hearsay analysis addressing those statements in her next decision. R.A.A.C. Order No. 14-02200 at pgs. 4-5 (October 2, 2014).[3]

Furthermore, the claimant was not given the opportunity to question either of the employers' witnesses. After the employer's first witness testified, the appeals referee stated she was going to give the claimant an opportunity to respond, but she did not clarify to the claimant that she is allowed to question the employer's witness. During the second hearing, the claimant was also not given the opportunity to cross-examine the employer's program director after she presented testimony. On remand, the claimant must be given the opportunity to question the two witnesses who previously testified. The parties are *warned* that the testimony of witnesses not subject to cross-examination at prior hearings will most likely be rejected as incompetent and, as such, given no consideration if the witnesses are not available during subsequent hearings. *See Altimeaux v. Ocean Construction, Inc.*, 782 So. 2d 922 (Fla. 2d DCA 2001). The referee shall specifically notice the parties of this fact when appropriate and record all attempts to telephone the parties.

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[2] Available at http://www.floridajobs.org/finalorders/raac_finalorders/15-03683.pdf.
[3] Available at http://www.floridajobs.org/finalorders/raac_finalorders/14-02200.pdf.

Additionally, the record needs additional development and the appeals referee must consider the parties' supplemental testimony when determining both whether the claimant had good cause attributable to the employer to resign and whether she exercised reasonable efforts to preserve her employment prior to resigning.

Good Cause Analysis

The referee found the claimant quit her employment because she had multiple unpleasant experiences. The claimant categorized the workplace as hostile and asserted she was subjected to harassment. The claimant also referenced seeing other Black and Hispanic individuals being subjected to negative treatment and testified, "Any Hispanic or Black person in that office was treated very badly"; however, she was not asked and did not explain what bad treatment she witnessed. During the proceedings, and in documents, the claimant has referenced other employees separating from this employer because of how they were treated, and she also seems to advocate for considering how others are treated when determining whether the work environment provided *her* with good cause attributable to the employer to quit.

As stated on numerous other occasions, the Commission considers the body of civil rights law, developed under both Title VII, the Florida Civil Rights Act (FCRA), and other related statutes, when analyzing whether someone's work environment provided them good cause to quit, without requiring the level of negative treatment necessary to establish a civil claim for a hostile work environment.[4,5]

That being said, whether another employee was deemed to have separated from this employer for good cause attributable to the employer based on the work environment is not controlling of whether *this claimant* left her employment for good cause attributable to the employer because of how she was treated or because of the work environment. On multiple occasions the claimant has referenced how others were treated by the employer. Guiding on this particular issue is the Eleventh Circuit's decision in *Adams v. Austal,* 754 F.3d 1240 (11th Cir. 2014), wherein numerous employees alleged that the work environment was racially hostile and set forth claims under Title VII, which guides FCRA analysis. Ultimately, the Court reversed summary judgment in favor of the employer as to seven employees, but affirmed the summary judgment in favor of the employer as to six other employees who worked for the employer at or about the same time. *Id.* at 1245.

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[4] *See, e.g.,* R.A.A.C. Order No. 15-02942 at pg. 7 (December 28, 2015), available at http://www.floridajobs.org/finalorders/raac_finalorders/15-02942.pdf.

[5] Although we write while referencing controlling civil rights law since the claimant set forth several accusations based upon race, maltreatment that is not based on a protected status can still constitute good cause attributable to the employer to quit; thus, a reemployment assistance claimant need not assert that they were treated poorly based on a protected status.

The Court explained that "[a] key dispute involves the frequency of the exposure of the racial misconduct that each employee experienced." *Id.* at 1246. The Court distinguished between treatment that was specifically directed at an individual employee, treatment that they witnessed directed at others, issues that the employees heard about second hand while employed, and issues the employees heard about during the pendency of the litigation. Each type of experience, from that directed at the employee to that learned about second hand, was given a different weight in the Court's analysis. *Id.* at 1251-58 (examining each litigant's individual experiences).

Consequently, for purposes of a reemployment assistance appeals proceeding, the appeals referee must give primacy to conduct that was directed at the claimant, then to what occurred in his or her presence, with limited weight being given to that which the claimant was told about. Further, for purposes of a reemployment assistance appeals case, issues that were present when the claimant was not employed with the employer should be given little to no value beyond lending weight to what type of environment the claimant *may* have worked in. *See Perkins v. International Paper Co.,* 936 F.3d 196 (4th Cir. 2019) (granting summary judgment to an employer on a constructive discharge claim; instructing that the primary focus in a hostile work analysis is how the litigant is treated, but that evidence of "how others were treated in the same workplace can be relevant to such a claim").

Furthermore, in the reemployment assistance context, when analyzing whether a work environment has provided a claimant with good cause to quit their employment, the appeals referee must consider whether profanity or other insulting terms were used[6]; whether there were threats or physical contact; the frequency of the occurrences; whether the events occurred in front of others[7]; and, whether adverse job actions accompanied any harassment.[8] *See also Mendoza v. Borden, Inc.,* 195 F.3d 1238, 1246 (11th Cir. 1999) (setting forth a similar analysis for hostile work environment cases). Additionally, it is not enough for an employee to "subjectively perceive" of harassment as sufficiently severe or pervasive to alter the terms of employment, the employee's perception of the environment or their treatment must be objectively reasonable. *See* R.A.A.C. Order No. 14-04590 at pg. 6 (February 26, 2015)[9] (citing *Mendoza, supra). See also Evans v. International Paper Co.,* 936 F.3d

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[6] *See, e.g., Gollett Enters. E., Inc., v. Unemployment Appeals Commission,* 630 So. 2d 1166 (Fla. 4th DCA 1993) (finding good cause when claimant was subjected to shouting and cursing); *Dempsey v. Old Dominion Freight Lines,* 645 So. 2d 538, 539 (Fla. 3d DCA 1994) (same).

[7] *See, e.g., Grossman v. Jewish Cmty. Ctr. of Greater Ft. Lauderdale, Inc.,* 704 So. 2d 714 (Fla. 4th DCA 1998) (finding good cause when claimant was berated in front of others).

[8] *See, e.g., Buckeye Cellulose Corp. v. Williams,* 522 So. 2d 39, 40 (Fla. 1st DCA 1988) (affirming that the claimant had good cause when, in addition to unfair treatment, his shifts were changed and his pay was reduced).

[9] Available at http://www.floridajobs.org/finalorders/raac_finalorders/14-04590.pdf.

183, 192-94 (4th Cir. 2019) (insensitive comments to plaintiff and evidence of several racially inappropriate comments to others of which the plaintiff was aware, when reviewed from an objective perspective, were not sufficient to establish that working conditions were so intolerable that a reasonable person would have felt compelled to resign).

The Supreme Court has set forth steep requirements for a hostile work environment claim. For purposes of reemployment assistance law, we also accept that "simple teasing, offhand comments, and isolated incidents (unless extremely serious) will not amount to discriminatory changes in the terms and conditions of employment." *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998) (internal quotations and citations omitted). Accordingly, should the appeals referee again determine, after further development of the record, that the claimant underwent a series of "unpleasant experiences" (which were neither severe nor pervasive) then it would be within the appeals referee's discretion to conclude that the claimant did not have good cause attributable to the employer to quit her employment.

Reasonable Efforts

As set forth above, the referee's findings of fact were not correct as to the contents of the employer's policy. The appeals referee must now reconsider whether the claimant made reasonable efforts to preserve her employment in light of the actual contents of the policy *and* considering what actions reasonable people generally take in a workplace when they are dissatisfied with the work environment.

The claimant's testimony indicated that she chiefly voiced her concerns to her supervisor, despite simultaneously being aggrieved by some of her supervisor's conduct. The claimant acknowledged that she did not think to go to human resources, despite the human resources manager being the individual who conducted her onboarding, and she seemed to acquiesce that the only notice she gave to upper management of her concerns was in her resignation letter.

On the other hand, the claimant testified she voiced concerns to a "Carmen" who worked in the office, but that employee's last name or position was not clarified. It is also unclear whether other individuals in management were present at claimant's job location. These facts should be considered when evaluating whether the claimant made reasonable efforts to preserve her employment. *See, e.g.,* R.A.A.C. Order No. 13-05313 at pgs. 6-7 (February 18, 2014) (addressing claimant's

attempts to preserve her employment when the employer's harassment policy provided multiple potential avenues for reporting harassment).[10] Instead the referee must consider all of the elements in concluding whether a reasonable person would have escalated his or her complaints and whether the claimant had the ability to do so prior to tendering her letter of resignation.

Overpayment of Benefits

Finally, the other issue in this case is whether the claimant was overpaid benefits. In order to address the overpayment issue, the referee must decide the related issue of whether the claimant received benefits to which she was not entitled as a result of the employer's failure to respond to the Notice of Claim within the required 14-day timeframe and, if so, whether the claimant is liable for repaying those benefits. *See* §443.151(6)(c), Fla. Stat. Department records indicate a Notice of Claim was mailed/posted to the employer on or about September 8, 2021, and, thus far, there is no response within the Department records. The evidentiary record was not developed regarding *whether the employer's failure to timely respond to the Notice of Claim* caused the claimant to receive benefits to which she was not entitled. *See* R.A.A.C. Order No. 17-02128 at pgs. 5-6 (October 31, 2017) (detailing the relevant questions and analysis necessary in order to determine whether an employer's failure to timely respond to the Notice of Claim caused the claimant to receive benefits to which he or she was not entitled).[11] After taking testimony regarding these issues, the referee must rule on whether the claimant was overpaid benefits that she is liable to repay to the Department.

The issue of whether the employer timely responded to the Notice of Claim also affects whether the employer's tax account is eligible for noncharging.[12] *See* §443.151(3)(a), Fla. Stat. On remand, the referee should send with the hearing notice a copy of the Notice of Monetary Determination dated December 22, 2021, and mark and admit the document as an exhibit during the next hearing as it is relevant to the overpayment issue.

[10] Available at http://www.floridajobs.org/finalorders/raac_finalorders/13-05313.pdf.
[11] Available at http://www.floridajobs.org/finalorders/raac_finalorders/17-02128.pdf.
[12] Based on our review of the Department's CONNECT system, it does not appear at the time of this review that the Department has issued a determination addressing this issue.

Supplemental Development of the Record

In summation, the referee must develop the record as to the following points:

- What other events did the claimant directly witness during her period of employment that contributed to her decision to resign; and, precisely when did the events in question occur (if the claimant cannot remember the precise date she should be questioned about when the events occurred in relation to when she was hired and when she resigned)?

- What was Carmen's last name and/or position; what members of management were at the claimant's jobsite, besides the claimant's supervisor; and did the claimant have contact with any other members of management prior to tendering her resignation letter?

- Did the employer receive the Notice of Claim or the Department's Fact-Finding Questionnaire; and, if so, when was it received? Did the employer response to those documents and, if so, when were they submitted to the Department?

The parties should also be allowed to present additional relevant testimony on the work environment and the claimant's efforts to preserve her employment. The employer must be given an adequate opportunity to rebut any new allegations the claimant may present and the claimant must be given the opportunity to cross-examine the employer's human resources manager and the employers' program director.[13] All documents the parties would like considered must be submitted appropriately, at least 24 hours prior to the hearing not including holidays and weekends. Any properly submitted documents must be authenticated and marked as exhibits, if appropriate, and the documents' evidentiary value must be appropriately addressed. Finally, a new decision must be rendered with specific facts and an appropriate conflict resolution as to any disputed facts. *See* Fla. Admin. Code R. 73B-20.025(3)(d)2.

[13] The parties are also cautioned to refrain from interruption and talking over witnesses, as that can create an unclear record.

The decision of the appeals referee is vacated and the case is remanded for further proceedings. The hearing(s) convened subsequent to this order shall be deemed supplemental, and all evidence currently in the record shall remain in the record.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman
Joseph D. Finnegan, Member

This is to certify that on
5/27/2022
the above order was filed in the office of the Clerk of the Reemployment Assistance Appeals Commission, and a copy mailed to the last known address of each interested party.
By: Mary Griffin
Deputy Clerk

DEPARTMENT OF ECONOMIC OPPORTUNITY
REEMPLOYMENT ASSISTANCE PROGRAM
PO BOX 5250
TALLAHASSEE, FL 32314 5250

*263582792 *

Docket No.0093 2949 90-04 Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

CLAIMANT/Appellant ***EMPLOYER/Appellee***

APPEARANCES:

Claimant

DECISION OF APPEALS REFEREE

Important appeal rights are explained at the end of this decision.

Derechos de apelación importantes son explicados al final de esta decisión.

Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.

SEPARATION: Whether the claimant was discharged for misconduct connected with work or voluntarily left work without good cause as defined in the statute, pursuant to Sections 443.101(1), (9), (10), (11), (13); 443.036(29), Florida Statutes; Rule 73B-11.020, Florida Administrative Code.

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Issues Involved: OVERPAYMENT: Whether the claimant received benefits to which the claimant was not entitled, and if so, whether those benefits are subject to being recovered or recouped by the Department, pursuant to Sections 443.151(6); 443.071(7); 443.1115, Florida Statutes and 20 CFR 615.8.

Findings of Fact: The Claimant filed for reemployment assistance benefits with an effective date of August 22, 2021, establishing a weekly benefit amount of $275. The Claimant began working for [the employer] on January 11, 2021, as a training specialist. During the Plaintiff's employment the Claimant had multiple unpleasant experiences. The Claimant was treated aggressively by staff members of the employer. The Claimant complained about the incidents to her immediate supervisor. Nothing was done about the Claimant's complaints. The Claimant did not escalate these complaints. The Claimant was under the impression that these complaints would be forwarded to the appropriate party. Company policy required the Claimant to follow a chain of command regarding complaints. The Claimant was required to reach out to Human Resources if she had a complaint. This policy was outlined in the orientation paper work, which the Claimant acknowledged receiving and signing. The Claimant separated from the employer on May 17, 2021. The Claimant claimed and received benefits for the weeks ending October 30, 2021 to November 13, 2021.

Conclusions of Law: The law provides that a claimant who voluntarily left work without good cause or was discharged for misconduct connected with the work will be disqualified for benefits.

The record reflects the Claimant quit for personal reasons. The Claimant quit due to unpleasant interactions with staff members of the employer. The Claimant addressed these situations with her immediate supervisor. Company policy required the Claimant to escalate any complaints to Human Resources. The Claimant failed to do so for the reasons aforementioned. The Claimant failed to comply with company policy regarding her complaints. Prior to quitting, the Claimant was required to reach out to Human Resources regarding her complaints and allow Human Resources the opportunity to address the Claimant's issues. The Claimant was aware of this policy and did not comply with it. Accordingly, it is held the Claimant quit for personal reasons, not reasons attributable to the employer.

The law provides that a claimant who was not entitled to benefits received must repay the overpaid benefits to the Department. The law does not permit waiver of recovery of overpayments.

The entry into evidence of a transaction history generated by a personal identification number establishing that a certification or claim for one or more weeks of benefits was made against the benefit account of the individual, together with documentation that payment was paid by a state warrant made to the order of the person or by direct deposit via electronic means, constitutes prima facie evidence that the person claimed and received reemployment assistance benefits from the state.

The record reflects the Claimant claimed and received benefits for the weeks ending October 30, 2021 to November 13, 2021. The record further reflects the Claimant is not entitled to those benefits. Accordingly, it is held there is an overpayment for the weeks ending October 30, 2021 to November 13, 2021.

Decision: The determination distributed November 23, 2021, disqualifying the Claimant from receiving benefits beginning May 23, 2021 and until earning $4,386, is **AFFIRMED**.

It is further held there is an **overpayment** for the weeks ending October 30, 2021 to November 13, 2021.

If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the department and set forth in a separate overpayment determination, unless specified in this decision. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

This is to certify that a copy of the above decision was distributed/mailed to the last known address of each interested party on March 1, 2022.

M. Edie
Appeals Referee

By: Rejane Schettini

Rejane Schettini, Deputy Clerk

IMPORTANT - APPEAL RIGHTS: This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the distribution/mailed date shown. If the 20th day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.003(4), filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at connect.myflorida.com or by writing to the address at the top of this decision. The date of the confirmation page will be the filing date of a request for reopening on the Department's Web Site.

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Fax: 850-488-2123); **https://raaciap.floridajobs.org.** If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and the last five digits of the claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

There is no cost to have a case reviewed by the Commission, nor is a party required to be represented by an attorney or other representative to have a case reviewed. The Reemployment Assistance Appeals Commission has not been fully integrated into the Department's CONNECT system. While correspondence can be mailed or faxed to the Commission, no correspondence can be submitted to the Commission via the CONNECT system. All parties to an appeal before the Commission must maintain a current mailing address with the Commission. A party who changes his/her mailing address in the CONNECT system must also provide the updated address to the Commission, in writing. All correspondence sent by the Commission, including its final order, will be mailed to the parties at their mailing address on record with the Commission.

IMPORTANTE - DERECHOS DE APELACIÓN: Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la distribución/fecha de envìo marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.003(4), el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [pago excesivo de beneficios] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en connect.myflorida.com o escribiendo a la dirección en la parte superior de esta decisión. La fecha de la página de confirmación será la fecha de presentación de una solicitud de reapertura en la página de Internet del Departamento.

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Servicios de Reempleo; Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Fax: 850-488-2123); **https://raaciap.floridajobs.org**. Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [*docket number*] y los últimos cinco dígitos del número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

No hay ningún costo para tener un caso revisado por la Comisión, ni es requerido que una parte sea representado por un abogado u otro representante para poder tener un caso revisado. La Comisión de Apelación de Asistencia de Reempleo no ha sido plenamente integrado en el sistema CONNECT del Departamento. Mientras que la correspondencia puede ser enviada por correo o por fax a la Comisión, ninguna correspondencia puede ser sometida a la Comisión a través del sistema CONNECT. Todas las partes en una apelación ante la Comisión deben mantener una dirección de correo actual con la Comisión. La parte que cambie su dirección de correo en el sistema CONNECT también debe proporcionar la dirección actualizada a la Comisión, por escrito. Toda la correspondencia enviada por la Comisión, incluida su orden final, será enviada a las partes en su dirección de correo en el registro con la Comisión.

ENPÒTAN - DWA DAPÈL: Desizyon sa a ap definitif sòf si ou depoze yon apèl nan yon delè 20 jou apre dat distribisyon/postaj. Si 20yèm jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.003(4), depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, connect.myflorida.com oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat cofimasyon page sa pral jou ou ranpli deman pou reouvewti dan web sit depatman.

Yon pati ki te asiste odyans la epi li resevwa yon desizyon negatif kapab soumèt yon demann pou revizyon retounen travay Asistans Komisyon Apèl la, Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Faks: 850-488-2123); https://raaciap.floridajobs.org. Si poste a, dat tenm ap dat li ranpli aplikasyon. Si fakse, men yo-a delivre, lage pa sèvis mesaje lòt pase Etazini Sèvis nan Etazini Nimewo, oswa soumèt sou Entènèt la, dat yo te resevwa ap dat li ranpli aplikasyon. Pou evite reta, mete nimewo rejis la ak senk dènye chif nimewo sekirite sosyal demandè a sosyal demandè a sekirite. Yon pati pou mande revizyon ta dwe presize nenpòt ak tout akizasyon nan erè ki gen rapò ak desizyon abit la, yo epi bay sipò reyèl ak / oswa legal pou defi sa yo. Alegasyon sou erè pa espesyalman tabli nan demann nan pou revizyon yo kapab konsidere yo egzante.

Pa gen okenn kou pou Komisyon an revize yon ka, ni ke yon pati dwe reprezante pa yon avoka oubyen lòt reprezantan pou ke la li a revize. Komisyon Apèl Asistans Reyanbochaj pa te entegre antyèman nan sistèm CONNECT Depatman an. Byenke korespondans kapab fakse oubyen pòste bay Komisyon an, okenn korespondans pa kapab soumèt bay Komisyon an atravè sistèm CONNECT. Tout pati ki nan yon apèl devan Komisyon an dwe mentni yon adrès postal ki ajou avèk Komisyon an. Yon pati ki chanje adrès postal li nan sistèm CONNECT la dwe bay Komisyon an adrès ki mete ajou a tou. Tout korespondans ke Komisyon an voye, sa enkli manda final li, pral pòste voye bay pati yo nan adrès postal yo genyen nan achiv Komisyon an.
