

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JOHN D FERRER**  
Claimant

**APPEAL 18A-UI-02595-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ERASMUS COMMUNICATIONS INC**  
Employer

**OC: 02/04/18  
Claimant: Respondent (4R)**

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Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work  
Iowa Code § 96.5(1)i – Voluntary Quitting/Business Sale  
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations

**STATEMENT OF THE CASE:**

The employer filed an appeal from the February 19, 2018, (reference 01) unemployment insurance decision that allowed benefits based upon a layoff due to a lack of work. The parties were properly notified about the hearing. A telephone hearing was held on March 23, 2018. Claimant responded to the hearing notice instructions but was not available at the number provided when the hearing was called and did not participate. Employer participated through payroll accountant Kayla Spillman.

**ISSUE:**

Was the claimant laid off due to a lack of work?  
May this employer's account be relieved of charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time writer/editor through November 9, 2017. The portion of the Erasmus Communications Inc. business that employed claimant was sold. The administrative record reflects that he went to work with the purchasing business, CMN.COM d/b/a Higher Education.com (598790), from which there was a separation. That separation has not been addressed by the Benefits Bureau of IWD.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

Iowa Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.1(113)a provides:

**Separations.** All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

Iowa Code section 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 part of the business that employed claimant was sold and there was no longer work available with this employer. The acquiring employer did have work available for claimant, which he accepted. Therefore, the Erasmus Communications' account is not chargeable for benefits paid. There is no decision as to the acquiring employer's tax status.

**DECISION:**

The February 19, 2018, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant was laid off due to a lack of work when part of the business was sold. Benefits are allowed, provided the claimant is otherwise eligible. The account of Erasmus Communications shall not be charged.

**REMAND:** The claimant separation from and tax status of CMN.COM issues as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for initial investigations and determinations with notice and appeal rights to both parties.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs