

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JODY C PONXS
Claimant

APPEAL NO. 10A-UI-10990-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NICHOLS EQUIPMENT
Employer

**OC: 06/20/10
Claimant: Appellant (2)**

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

Jody Ponxs (claimant) appealed a representative's July 29, 2010 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Nichols Equipment (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 21, 2010. The claimant participated personally. The employer participated by Michael Nichols, Owner.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 23, 2009, as a full-time bookkeeper/receptionist. The claimant did work at the behest of Mr. Malloy and Mr. Nichols. She was paid by both people for work she did without division for who requested the work. During the week of June 14, 2010, the two men told the claimant they would be discussing whether they needed the claimant's services in the future due to the economy. On July 22, 2010, Mr. Malloy sent the claimant a message indicating she should find another job. On July 23, 2010, the claimant collected her last paycheck.

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.

871 IAC 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 (lasting or expected to last more than seven consecutive calendar days without pay) 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.

The employer laid the claimant off for lack of work on July 23, 2010. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant is eligible to receive unemployment insurance benefits.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible because she provided evidence to support her belief.

DECISION:

The representative's July 29, 2010 decision (reference 02) is reversed. The claimant was laid off for lack of work. She is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs