

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA L VIERS
Claimant

APPEAL NO. 10A-UI-10230-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TLC: THE LEARNING CENTER
Employer

OC: 05/09/10
Claimant: Respondent (1/R)

871 IAC 24.1(113)a – Separations From Employment

STATEMENT OF THE CASE:

TLC: The Learning Center (employer) appealed a representative's July 8, 2010 decision (reference 01) that concluded Jessica Viers (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 2, 2010. The claimant participated personally. The employer participated by Kim Herrick, Director, and Kathy Herrick, Director. The employer offered and Exhibit One was received into evidence.

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 September 2, 2008, as a part-time substitute teacher working on-call/as-needed. The claimant signed for receipt of the employer's handbook on August 26, 2008. Later the claimant was hired as a full-time teacher working approximately 40 hours per week. Her hours were mostly 9:00 a.m. to 5:00 p.m. The handbook states "Staff hours will be set upon hiring. Schedules will change according to enrollment".

The claimant requested and was granted time off from work from April 26 through May 7, 2010, when her two year old son had surgery. While on leave the employer changed the requirements of the position. Two or three times per week the teacher had to stay until 6:00 p.m. The claimant could work until 5:00 p.m. but not until 6:00 p.m. The employer changed the claimant's job title to on-call substitute teacher. Since she returned to work on May 10, 2010, the claimant has worked an average of 25 hours per week. The claimant filed for unemployment insurance benefits with an effective date of May 9, 2010.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not separated from employment.

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 claimant was not separated from employment, her hours were reduced. The claimant is eligible to receive unemployment insurance benefits. The issue of the whether the claimant is able and available for employment is remanded.

DECISION:

The representative's July 8, 2010 decision (reference 01) is affirmed. The claimant is eligible to receive unemployment insurance benefits. The issue of the whether the claimant is able and available for employment is remanded.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css