

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RYAN MONTEITH
Claimant

AMERICAN HOME SHIELD CORP
Employer

APPEAL 21A-UI-09399-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/28/21
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 30, 2021, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on June 17, 2021. Claimant Ryan Montheith participated. Witness Alicia Carlton testified on behalf of claimant. Employer American Home Shield Corp. did not register for the hearing and did not participate.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a utility worker from February 1, 2021, until March 1, 2021.

On March 1, 2020, the store manager and assistant manager notified claimant that due to business slowing, employer no longer had enough work for him. Claimant was laid off due to a lack of work that same day. Employer informed claimant the layoff was not due to job performance but merely to economic issues leading to a lack of work.

Claimant has continued to look for work since his discharge. He is applying for jobs at home warranty companies like employer, and also at call centers, which is where his previous work experience occurred. Claimant has no barriers to employment.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

On March 1, 2021, claimant was notified he was being permanently laid off due to a lack of work. Employer emphasized the layoff was not due to claimant's job performance. Claimant was separated from employment through no fault of his own. The separation (layoff) was attributable to a lack of work by the employer. Benefits are allowed.

The next issue is whether claimant is able to and available for work.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

In this case, claimant is looking for home warrant work and call work, both of which he has experience doing. Claimant has no barriers to working. Therefore, he has established he is able to work

DECISION:

The March 30, 2021, (reference 01) unemployment insurance decision is reversed. Claimant was permanently laid off due to a lack of work. Claimant is able to and available effective February 28, 2021. Benefits are allowed, provided the claimant is otherwise eligible.



Stephanie Adkisson
Administrative Law Judge
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June 30, 2021

Decision Dated and Mailed

sa/kmj