

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE BARTLEY**  
Claimant

**APPEAL NO. 11A-UI-02272-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**POLARIS INDUSTRIES MANUF LLC**  
Employer

**OC: 12-26-10**  
**Claimant: Appellant (2)**

Section 96 5-1 – Voluntary Leaving - Layoff  
Section 96.4-6-a-b – Department-Approved Training

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 21, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 22, 2011. The claimant participated in the hearing. Kim Phillips, human resources generalist, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant refused to return to work after a layoff and whether she has been approved for department approved training.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time general assembler for Polaris Industries from July 27, 2008 to March 17, 2010. The claimant was on an indefinite layoff beginning December 23, 2009. Because she was told it was an indefinite layoff, she enrolled in school and was determined by the department to be no longer temporarily unemployed effective February 22, 2010, as the layoff lasted longer than four weeks. The claimant was also approved for department-approved training (DAT) February 22, 2010, which means she was not required to be available for work, actively search for work, or accept suitable work while in that program.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was initially laid off due to a lack of work but was approved for department approved training and was no longer considered to be on a temporary layoff.

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 Code section 96.19-38 provides:

"Total and partial unemployment".

- a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.
- b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

- c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Code section 96.4-6-a-b provides:

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.
- b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. § 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as

defined in 19 U.S.C. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

The claimant was indefinitely laid off December 23, 2009, but was no longer considered temporarily laid off after four weeks of layoff. She enrolled for the second semester of college in January 2010 and was approved for DAT effective February 22, 2010. Because she was considered no longer temporarily laid off and was enrolled in the DAT program, she is not required to be available for work, actively seek work, or accept suitable work while in the DAT program. While the initial separation was attributable to a lack of work by the employer, the claimant is in DAT. Therefore, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The February 21, 2011, reference 01, decision is modified in favor of the appellant. The claimant was laid off due to a lack of work but is no longer considered temporarily laid off and is enrolled in DAT. Benefits are allowed, provided the claimant is otherwise eligible, and the account of the employer shall not be charged.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw