

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RALPH A KROLICK
Claimant

APPEAL NO. 16A-UI-11140-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SECURITAS SECURITY SERVICES USA
Employer

OC: 09/11/16
Claimant: Appellant (2)

871 IAC 24.1(113) – Layoff

STATEMENT OF THE CASE:

Ralph Krolick filed a timely appeal from the October 10, 2016, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on an agency conclusion that Mr. Krolick was discharged on March 18, 2016 for violation of a known company rule. After due notice was issued, a hearing was held on October 31, 2016. Mr. Krolick participated. The employer waived its participation in the hearing. The hearing in this matter was consolidated with the hearing in Appeal Number 16A-UI-11141-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the agency's administrative record of benefits disbursed to the claimant. The administrative law judge hereby takes official notice of the October 13, 2016, reference 05, decision that allowed benefits to the claimant in connection with the original claim that was effective September 11, 2016, provided he was otherwise eligible and that relieved the employer's account of liability for benefits in connection with that claim, based on an agency conclusion that the claimant had been paid sufficient wages since the separation to requalify for unemployment insurance benefits in connection with the new claim year.

ISSUE:

Whether Mr. Krolick separated from his employment with Securitas Security Services USA for a reason that disqualifies him for benefits or that relieves him of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ralph Krolick was employed by Securitas Security Services USA as a security guard from December 2015 and last performed work for the employer in January 2016. The employer assigned Mr. Krolick to work at two accounts. The first account was at Microsoft. The second account was a one-day assignment at construction site in downtown Des Moines. Thereafter, Mr. Krolick contacted the employer for additional work, but the employer did not provide Mr. Krolick with additional work. After several weeks of not receiving any work from the employer, Mr. Krolick returned his uniforms to the employer.

Mr. Krolick established an additional claim for benefits that was effective February 21, 2016. With the exception of the week that ended April 9, 2016, Mr. Krolick received \$269.00 in weekly benefits for each week between February 21, 2016 and May 7, 2016. For the week that ended April 9, 2016, Mr. Krolick received \$219.00 in benefits. The additional claim for benefits in February 2016 was based on an original claim that was effective August 30, 2015. Securitas Security Services USA is not a base period employer for purpose of the benefit year that started for Mr. Krolick on August 30, 2015 and that ended for Mr. Krolick on August 27, 2016. Mr. Krolick subsequently established a new claim year and new original claim that was effective September 11, 2016.

On October 13, 2016, a Workforce Development representative entered a reference 05 decision that allowed benefits to the claimant in connection with the original claim that was effective September 11, 2016, provided he was otherwise eligible and that relieved the employer's account of liability for benefits in connection with that claim, based on an agency conclusion that the claimant had been paid sufficient wages since the separation to requalify for unemployment insurance benefits in connection with the new claim year.

REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 24.1(113) provides as follows:

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.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

The weight of the evidence establishes that Securitas laid off Mr. Krolick in January 2016, when the employer failed to provide Mr. Krolick with additional work. The layoff did not disqualify Mr. Krolick for benefits. The layoff did not relieve the employer of liability for benefits. Contrast Iowa Code section 96.5(1) (regarding voluntary quits without good cause attributable to the employer) and Iowa Code section 96.5(2)(a) (regarding discharges for misconduct in connection with the employment). Mr. Krolick was and is eligible for benefits, provided he meets all other eligibility requirements. Because the employer is not a base period employer for purposes of the claim year that started on August 30, 2015, and because the agency has relieved the employer of liability in connection with new claim year that was effective September 11, 2016, the employer's account will not be charged for benefits paid to the claimant.

DECISION:

The October 10, 2016, reference 01, decision is reversed. The claimant was laid off in January 2016. Based on the separation, the claimant is eligible for benefits for the period beginning February 21, 2016, provided he meets all other eligibility requirements. Because the employer is not a base period employer for purposes of the claim year that started on August 30, 2015, and because the agency has relieved the employer of liability in connection with new claim year that was effective September 11, 2016, the employer's account will not be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs