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

JAMES E TENNISON
Claimant

APPEAL NO: 12A-UI-15027-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMERS IMPLEMENT COMPANY
Employer

**OC: 12/02/12
Claimant: Respondent (1)**

871 IAC 24.1(113)a – Layoff

STATEMENT OF THE CASE:

Farmers Implement Company (employer) appealed a representative's December 17, 2012 decision (reference 03) that concluded James E. Tennison (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 13, 2013. This appeal was consolidated for hearing with one related appeal, 13A-UI-00370-DT. The claimant participated in the hearing. Tricia Nartker appeared on the employer's behalf and presented testimony from one other witness, Nathan Farrier. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on February 11, 2005. He worked full time as a service technician. His last day of work under the ownership of Farmers Implement Company was November 1, 2011. Effective that date the employer merged with another entity to become Precision Equipment, L.L.C., the defacto successor owner. No further work was available for the claimant with Farmers Implement Company, and the claimant became an employee of the defacto successor owner. The matter of the claimant's December 3, 2012 separation from the successor owner is dealt with in the concurrently issued decision in 13A-UI-00370-DT.

REASONING AND CONCLUSIONS OF LAW:

A separation is disqualifying if it is a voluntary quit without good cause attributable to the employer or if it is a discharge for work-connected misconduct.

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 separation between the claimant and the employer Farmers Implement Company was a layoff by the employer due to the merger of the business and the creation of a defacto successor owner, Precision Equipment, L.L.C.; the employer Farmers Implement Company had no work it could provide to the claimant. As there was not a disqualifying separation, benefits are allowed if the claimant is otherwise eligible.

The final wages paid by the employer Farmers Implement Company to the claimant are still within the claimant's base period of his current claim for unemployment insurance benefits. The chargeability of the employer's account for any benefits that might be paid to the claimant then rests on whether benefit payments extend long enough to reach the employer's wage credits pursuant to the inverse chronological order charging under Iowa Code § 96.3-5, and whether there has been a transfer of the wage credits and liability under Iowa Code § 96.7-2-a(2) and 871 IAC 23.28 and 871 IAC 23.30(1)(2) from the employer to the defacto successor owner.

DECISION:

The representative's December 17, 2012 decision (reference 03) is affirmed. The claimant was laid off from the employer as of November 1, 2011 due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Lynette A. F. Donner
Administrative Law Judge

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Decision Dated and Mailed

ld/css