

June 11, 2005 when the hours dwindled to 12, then 11, then nothing. She had asked for two weeks off for sinus surgery in January 2005 and returned to significantly similar working hours.

REASONING AND CONCLUSIONS OF LAW:

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

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 96.4-3 provides:

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

3. 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 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, 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".

Even though claimant did not apply for other jobs with employer, she did make herself available for her regular job. Thus she is considered available to work. Given the substantial amount of regular hours over the most recent ten months of employment claimant had a de facto part-time job without a reasonable or credible explanation as to why the previously consistent hours suddenly stopped completely for four months and counting. This lends itself to a determination as a separation from part-time employment rather than a dry spell of on-call work as employer argued. The lack of employer's reasonable explanation hints at retaliatory or discriminatory scheduling. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The September 28, 2005, reference 01, decision is reversed. The claimant was laid off due to a lack of work. Benefits are allowed, provided she is otherwise eligible.

dml/s