

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MOLYNEUX, KARL, E
Claimant

APPEAL NO. 13A-UI-01638-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 12/23/12
Claimant: Appellant (2)

871 IAC 24.1(113) – Layoff

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the January 31, 2013, reference 01, decision that denied benefits effective December 23, 2012, based on agency conclusion that the claimant had requested and been granted a leave of absence. After due notice was issued, a hearing was held on March 11, 2013. Claimant participated. Employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

ISSUE:

Whether the claimant was laid off or whether the claimant requested and was approved for a leave of absence. The administrative law judge concludes that the claimant was laid off effective December 7, 2012 and is eligible for benefits, provided he is otherwise eligible.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant started with Whirlpool Corporation in 1980 and last performed work for the employer on December 7, 2012. Up to that time, the claimant was assigned to the third shift. The claimant's duties involved packing units for shipment. Effective December 7, 2012, the employer eliminated work in the claimant's work area and on the claimant's shift. The employer solicited employees to accept layoff. An employee who accepted layoff would retain seniority rights. The employer gave workers with more seniority the option of being laid off or moving to another shift and work area. The claimant had substantial seniority. Had the claimant not accepted layoff, a coworker with less seniority would have been subjected to layoff. The claimant elected to accept layoff. The claimant expects to be recalled to the employment April 4, 2013, but expects to be recalled to work in a different area on a different shift than the previous employment. The claimant established a claim for unemployment insurance benefits that was effective December 23, 2012.

REASONING AND CONCLUSIONS OF LAW:

The employer did not participate in the hearing despite having been provided appropriate notice of the hearing.

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

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.

871 IAC 24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The weight of the evidence in the record establishes that the claimant was laid off effective December 7, 2012. As of that time, the employer no longer had worked for the claimant on his regular shift and in his regular work area. The layoff would not disqualify the claimant for unemployment insurance benefits. The claimant is eligible for benefits effective December 23, 2012 provided he is otherwise eligible. The employer's account may be charged.

DECISION:

The Agency representative's January 31, 2013, reference 01, decision is reversed. The claimant was laid off effective December 7, 2012. The claimant is eligible for benefits effective December 23, 2012 provided he is otherwise eligible. The employer's account may be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs