

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHELLI SNEED
Claimant

WESTERN ENGINEERING CO INC
Employer

APPEAL 20A-UI-00018-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/01/19
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated December 20, 2019, (reference 01) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 23, 2020. Claimant participated. Employer participated by Shar Arkfeld, Human Resources Assistant. Employer's Exhibits 1-5 were admitted into evidence.

ISSUE:

The issue in this matter is whether the claimant was laid off due to a lack of work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 23, 2019. Claimant was laid off for the season by her supervisor on that date.

Claimant began working for employer as a flagger on June 15, 2009. Claimant was offered full-time seasonal work. On September 23, 2019 claimant was having difficulty reaching her supervisor by her radio. Claimant called her supervisor to find out where she was working that day, and to remind him that she had a doctor's appointment later on that date. While she was on her phone her supervisor arrived, and asked her why she was on her phone and not working. Claimant explained what had happened, and she reminded her supervisor that she had a doctor's appointment. Claimant's supervisor told her to go ahead and leave for the season. He also told her to make sure and wait until after the season had completely ended before filing for unemployment benefits.

Claimant left the job-site on September 23, 2019 and she did not receive any phone calls or texts from employer with work after that date. Claimant filed for benefits on December 1, 2019 after the season had completely ended pursuant to employer's instructions.

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, regardless of the source of the individual's wage credits:

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 Admin. Code r. 871-24.1 provides:

Definitions. Unless the context otherwise requires, the terms used in these rules shall have the following meaning. All terms which are defined in Iowa Code chapter 96 shall be construed as they are defined in Iowa Code chapter 96.

24.1(113) *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.

Iowa Admin. Code r. 871-24.22(2)c provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) *Available for work.* The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

c. *Intermittent employment.* An individual cannot restrict employability to only temporary or intermittent work until recalled by a regular employer.

Iowa Admin. Code r. 871-24.23(27) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a

claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

Because of being permanently laid off from work, claimant is obligated to make at least two in-person work searches during each week benefits are claimed and may not restrict herself to temporary or intermittent work while waiting to reapply for work.

DECISION:

The December 20, 2019, (reference 01) unemployment insurance decision is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn