

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**HEATHER M KACMARYNSKI**  
Claimant

**METHODIST MANOR**  
Employer

**APPEAL 18A-UI-02801-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/31/17**  
**Claimant: Respondent (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer filed an appeal from the February 23, 2018, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 28, 2018. Claimant participated. Employer participated through human resources manager Connie Jensen and CEO Nick Landgraf. Employer Exhibit 1 was admitted into evidence with no objection. The employer offered Employer Exhibit 2 into evidence. Claimant objected to Employer Exhibit 2 because she had not received it until the fact-finding interview. Claimant's objection was overruled and Employer Exhibit 2 was admitted into evidence over claimant's objection. Official notice was taken of the administrative record with no objection.

**ISSUES:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a cook with this employer from December 1, 2017, and was separated from employment on January 5, 2018 when she was laid off due to a lack of work.

Claimant worked for M & D Hamm Inc. from September 2014 until December 1, 2017, when the employer acquired M & D Hamm Inc. In November 2017, claimant filled out an application to work for the employer at the Sioux Rapids location. In November 2017, claimant asked Ms.

Jensen if her position was only for the Sioux Rapids location and she was told yes. Claimant accepted the position for the employer as a cook at the Sioux Rapids location.

In late December 2017, kitchen supervisor Amy Koster informed claimant that her hours were going to be reduced. On January 4, 2018, Ms. Koster informed claimant that January 5, 2018 would be her last day of work. Ms. Koster told claimant in person and also provided her a note that her last day was January 5, 2018. Ms. Koster told claimant that she was no longer needed because the employer was down to two residents at the Sioux Rapids location and her position was being eliminated. Claimant understood that the sole reason for her separation was due to the lack of residents at the employer. Claimant was not aware of any meetings the employer had with employees about jobs in Storm Lake. Claimant did not have any prior disciplinary warnings.

### **REASONING AND CONCLUSIONS OF LAW:**

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

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(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 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.

On January 4, 2018, claimant's direct supervisor told claimant her last day of work was January 5, 2018 because the employer was eliminating her position due to a lack of work. The employer permanently laid claimant off of work from the Sioux Rapids facility, which is where she was hired her to work.

In this case, claimant was separated from employment through no fault of her own. Claimant was let go by the employer due to a lack of work. Therefore, the separation (layoff) was attributable to a lack of work by the employer. Benefits are allowed. Because of being permanently laid off from work, claimant is obligated to make at least two searches during each week benefits are claimed.

**DECISION:**

The February 23, 2018, (reference 02) unemployment insurance decision is affirmed. Claimant was laid off due to a lack of work. Benefits are allowed, provided claimant is otherwise eligible.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs