

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICHARD T VON HOLDT
Claimant

CITY OF WEST DES MOINES
Employer

APPEAL 16A-UI-13128-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/29/15
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

The employer filed an appeal from the November 30, 2016, (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 3, 2017. Claimant participated. Employer participated through Monica McAlpin, Human Resources Administrator.

ISSUE:

Was the claimant laid off due to a lack of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hired to work as a seasonal horticulturist beginning on March 28, 2016 through November 18, 2016 when the season ended. The claimant and employer both agree that the claimant was only hired to work for the season. The claimant worked through the end of the season and will apply to work again for the employer next year.

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 § 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 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 (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.

While the employer may not consider the claimant's separation as a layoff, under the law an employee separated from seasonal employment at the end of the season is considered laid off due to lack of work. Even if an employee is told that their job will only be for a specific time period or for a season, that does not mean they must be disqualified from receipt of unemployment insurance benefits. Under these circumstances, the separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The November 30, 2016, (reference 03) decision is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs