

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAVON M MEYERS
Claimant

APPEAL NO. 11A-UI-12931 -VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

BOWN HOLDINGS INC
Employer

**OC:08/14/11
Claimant: Respondent (1R)**

871 IAC 24.1(113)A – Short-Term Layoff

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated September 22, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 24, 2011. Claimant participated. Employer participated by Jody Bown, Owner. The record consists of the testimony of Jody Bown and the testimony of Lavon Meyers.

ISSUE:

Whether the claimant is on a short-term layoff.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a retail store in Elkader, Iowa, that sells antiques and home furnishings. The claimant worked as a part-time employee starting in 2009. She was gone for a period of time due to a leave of absence but returned in February 2011.

Jody Bown, the owner, received a complaint about the claimant from an individual who leased space from Ms. Bown and had a store adjacent to the employer's store. The first complaint was during the Fourth of July holiday. The second complaint was on July 30, 2011. The claimant wanted a meeting with the lessee and Ms. Bown. Ms. Bown could not make arrangements for the meeting and asked the claimant to say away from work. The claimant agreed. The claimant then filed a claim for unemployment insurance benefits with an effective date of August 14, 2011. The claimant was terminated on October 1, 2011.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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.

The evidence established that the claimant was asked by the employer not to come to work after two complaints from a tenant of the employer. The employer wanted some additional time to consider the matter. The claimant agreed not to come to work. The employer also asked the claimant not to file for unemployment benefits even though the employer would not allow the claimant to work. The claimant's situation is analogous to a layoff and she is entitled to unemployment benefits while on a short-term layoff.

Ms. Bown, the owner, testified that the claimant was terminated effective October 1, 2011. The Claims Section has not had an opportunity to determine whether the separation of employment was for disqualifying reasons. This matter is remanded to the Claims Section for further investigation.

DECISION:

The decision of the representative dated September 22, 2011, reference 01, is affirmed. The claimant was placed on a short-term layoff and is eligible for benefits with the establishment of her original claim for benefits on August 14, 2011. The claimant was terminated on October 1, 2011. This matter is remanded to the Claims Section to determine whether the claimant is disqualified for benefits as a result of the separation on October 1, 2011.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css