

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRIAN A JACKSON
Claimant

APPEAL 19A-UI-06260-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANKENY CHRISTIAN ACADEMY
Employer

OC: 07/07/19
Claimant: Respondent (1)

Iowa Code § 96.5-1 – Voluntary Leaving - Layoff
871 IAC 24.1(113)a – Separations From Employment
Iowa Code § 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Ankeny Christian Academy (employer) appealed a representative's August 1, 2019, decision (reference 05) that concluded Brian Jackson (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 29, 2019. The claimant participated personally. The employer participated by Sherri Moerman, Financial Specialist. The administrative law judge took official notice of the administrative record.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 22, 2018, as a part-time custodian. He worked three to four hours per week. The custodial supervisor told the employer that most of the custodians were resigning. In response the employer hired a cleaning company on or about May 1, 2019. The new company started cleaning on May 23, 2019.

The claimant filed for unemployment insurance benefits with an effective date of July 7, 2019. He received no unemployment insurance benefits after his separation from employment. The employer provided the name and number of Steven Robinson as the person who would participate in the fact-finding interview on July 31, 2019. The fact finder called Mr. Robinson but he was not available. The fact finder left a voice message with the fact finder's name, number, and the employer's appeal rights. The employer did not respond to the message. The employer provided one document for the fact finding interview.

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(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 employer laid the claimant off for lack of work as of May 22, 2019. When an employer suspends a claimant from work status, the separation does not prejudice the claimant. The employer did not have work for the claimant because it gave the work to another company. The claimant's separation was attributable to a lack of work by the employer. The claimant was laid off before he offered his resignation. A worker cannot quit work after he has already been separated from that job. Work would not have been available had he stayed. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's August 1, 2019, decision (reference 05) is affirmed. The claimant was laid off for lack of work. Benefits are allowed provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs