

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AARON M HICKS
Claimant

AMAZON COM SERVICES INC
Employer

APPEAL 21A-UI-25521-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/17/21
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(2)a – Discharge for Misconduct
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 November 8, 2021, (reference 01) unemployment insurance decision that allowed benefits based upon a determination that claimant was laid off from work on September 2, 2021, while absent for reasons beyond his control. The parties were properly notified about the hearing. A telephone hearing was held on January 14, 2022. Claimant Aaron M. Hicks did not participate. Employer Amazon.com Services, Inc. participated through senior human resources assistant Manal Abu. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was claimant laid off from work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a fulfillment associate from December 14, 2020, until October 22, 2021, when he was separated from employment.

On June 1, 2021, claimant requested a leave of absence so he could undergo surgery. Employer granted the request. Claimant's leave of absence was scheduled to end on July 1, 2021, but he requested an extension because he needed additional recovery time. He was scheduled to return to work in October 2021. Beginning in early October 2021, employer attempted to contact claimant by telephone and email to determine his return-to-work date, but claimant did not respond to employer's messages. On October 22, 2021, employer ended claimant's employment for job abandonment. Claimant was on a leave of absence from June 1, 2021, until his separation on October 22, 2021. He was not laid off by employer on September 2, 2021.

Claimant's October 22, 2021, separation from employment has been addressed in a December 6, 2021 (reference 04) decision.

Claimant did not file any weekly claims for benefits until after his separation. He filed his initial claim for benefits effective October 17, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not laid off on September 2, 2021, and remained employed by employer his separation on October 22, 2021. Benefits are denied.

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.

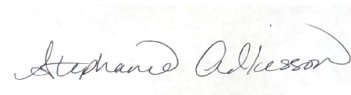
- a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

Here, employer did not initiate a layoff. Claimant was out of work on a leave of absence because he underwent surgery. He remained on a leave of absence until his separation on October 22, 2021. As such, benefits are denied.

Because claimant did not file any weekly claims between September 2, 2021, and his October 22, 2021, separation, which has been addressed in a December 6, 2021 (reference 04) decision, the issues of overpayment and chargeability are moot.

DECISION:

The November 8, 2021, (reference 01) unemployment insurance decision is reversed. Claimant was not laid off and remained employed by employer until his October 22, 2021, separation. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Because claimant was not separated from employment and because he did not file any weekly claims between September 2, 2021, and his October 22, 2021, separation, which has been addressed in a December 6, 2021 (reference 04) decision, the issues of overpayment and chargeability are moot.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

February 10, 2022
Decision Dated and Mailed

sa/kmj