

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA D BOLIO

Claimant

APPEAL NO. 13A-UI-09259-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES IND COMMUNITY SCH DIST

Employer

OC: 06/30/13

Claimant: Appellant (2)

871 IAC 24.1(113) – Layoff

STATEMENT OF THE CASE:

Jessica Bolio filed a timely appeal from the August 8, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 16, 2013. Ms. Bolio participated. Cathy McKay, Director of Benefits represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 13A-UI-09260-JTT. Exhibits A and B were received into evidence. The administrative law judge took official notice of the agency's administrative record (DBRO) of benefits disbursed to the claimant.

ISSUE:

Whether Ms. Bolio's temporary separation from the employer was for a reason that disqualifies Ms. Bolio for unemployment insurance benefits. The administrative law judge concludes that Ms. Bolio was temporarily laid off effective June 28, 2013 and is eligible for benefits provided she meets all other eligibility requirements.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jessica Bolio became an employee of the Des Moines Independent Community School District in 2005. For four years leading up to June 28, 2013, Ms. Bolio worked as a full-time administrative secretary in the employer's health services area. Ms. Bolio assisted with Medicaid billing for services to students with disabilities. In March 2013, Ms. Bolio's supervisor, Shelly Bosovich, Executive Director of Student Services, notified Ms. Bolio that her position was to be "excessed" as at the end of June 2013 due to budget issues. In other words, effective July 1, 2013, the employer would have no work for Ms. Bolio in the administrative secretary position. Ms. Bolio continued to perform her duties until Thursday, June 27, 2013 and then used a vacation day on June 28, 2013. Ms. Bolio was then laid off while the District and Ms. Bolio attempted to find another suitable position for Ms. Bolio with the District. Ms. Bolio began her new position with the District on August 5, 2013. Ms. Bolio now works for the district as a full-time Office Manager, but has a 10.5-month appointment, rather than the 12-month appointment she had in the administrative secretary position.

REASONING AND CONCLUSIONS OF LAW:

Iowa Workforce Development rule 871 IAC 24.1(113) provides as follows:

24.1(113) 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.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

Iowa Code section 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 Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

An individual shall be deemed *temporarily unemployed* if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed *due to a plant shutdown, vacation, inventory, lack of work or emergency* from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated. Iowa Code Section 96.19(38)(c).

The evidence indicates that Ms. Bolio was temporarily laid off from June 28, 2013 through August 4, 2013. Ms. Bolio was eligible for benefits during the period of the layoff, provided she met all other eligibility requirements. The employer may be charged for benefits paid to Ms. Bolio.

DECISION:

The agency representative's August 8, 2013, reference 01, decision is reversed. The claimant was temporarily laid off from June 28, 2013 through August 4, 2013. The claimant is eligible for benefits for the period of the layoff provided she meets all other eligibility requirements. The employer may be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs