

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHELBY ANTELMAN
Claimant

APPEAL NO: 13A-UI-05261-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

R WIRELESS LLC
Employer

OC: 03/03/13

Claimant: Respondent (1)

871 IAC 24.1(113)a – Layoff

STATEMENT OF THE CASE:

R Wireless, L.L.C. (employer) appealed a representative's April 26, 2013 decision (reference 02) that concluded Shelby Antelman (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 31, 2012. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Chuck Robbins appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in about September 2010. She worked part time (25 – 35 hours per week) as a sales associate in the employer's Altoona, Iowa store. Her last day of work for the employer's business was September 30, 2012. The employer closed and sold its business effective that date. The employer had no further work available for the claimant within its business. The claimant became employed by the entity which purchased the business, Profit Advantage doing business as Chevalier, L.L.C., effective October 1, 2012. The administrative law judge notes that there has already been an inquiry into the claimant's February 28, 2013 separation from Profit Advantage/Chevalier. A representative's decision was issued on April 1, 2013 (reference 01) which concluded that this separation was not disqualifying; Profit Advantage/Chevalier did not appeal that decision.

REASONING AND CONCLUSIONS OF LAW:

A separation is disqualifying if it is a voluntary quit without good cause attributable to the employer or if it is a discharge for work-connected misconduct.

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 separation between the claimant and the employer was a layoff by the employer due to the employer's closure and sale of its business; the employer had no work that it could provide to the claimant. As there was not a disqualifying separation, benefits are allowed if the claimant is otherwise eligible.

The final wages paid by the employer to the claimant are still within the claimant's base period of her current claim for unemployment insurance benefits. The chargeability of the employer's account for any benefits that might be paid to the claimant then rests on whether benefit payments extend long enough to reach the employer's wage credits pursuant to the inverse chronological order charging under Iowa Code § 96.3-5, and whether there has been a transfer of the wage credits and liability under Iowa Code § 96.7-2-a(2) and 871 IAC 23.28 and 871 IAC 23.30(1)(2) from the employer to the company who purchases its business.

DECISION:

The representative's April 26, 2012 decision (reference 02) is affirmed. The claimant was laid off from the employer as of September 30, 2012 due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css