

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT C TIGHE
Claimant

APPEAL NO. 17A-UI-03430-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LARRY'S WINDOW SERVICE INC
Employer

**OC: 12/25/16
Claimant: Respondent (5)**

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

Larry's Window Service (employer) appealed a representative's March 21, 2017, decision (reference 01) that concluded Robert Tighe (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 scheduled for April 20, 2017. The claimant participated personally. The employer participated by Travis Herman, Vice President. Exhibit D-1 was received into evidence.

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 April 11, 2005, as a full-time team leader. On December 15, 2016, the employer laid the claimant off for lack of work. The claimant filed for additional unemployment insurance benefits on December 11, 2016, on his December 27, 2015, claim. On December 25, 2016, the claimant filed a new claim for benefits when his previous claim year ended.

On March 7, 2017, the claimant called the employer while he was still laid off. The claimant told the employer he was doing well enough, he needed a break, and would be quitting.

The employer participated personally at the fact finding interview on March 20, 2017, by Travis Herman.

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 § 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 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 on December 15, 2016. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant's subsequent assertion that he was quitting does not change his status of being laid off in December 2016. The claimant is eligible to receive unemployment insurance benefits for that period.

DECISION:

The representative's March 21, 2017, decision (reference 01) is modified with no effect. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs