

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

OLIVIA HOLLIS
Claimant

APPEAL NO. 15R-UI-12411-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY LLC
Employer

OC: 09/07/14
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

IAC Iowa City (employer) appealed a representative's August 12, 2015, decision (reference 02) that concluded Olivia Hollis (claimant) was discharged and there was no evidence of willful or deliberate misconduct. This administrative law judge issued a decision on September 23, 2015, affirming the representative's decision. On November 3, 2015, the Employment Appeal Board affirmed the administrative law judge's decision and remanded the issue of the voluntary quit to the appeals section. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 14, 2015. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 14, 2015. The claimant participated personally. The employer was represented by Jennifer Rice, Hearings Representative, and participated by Trisha Semelroth, Senior Human Resources Generalist, and Mary Turecek, Human Resources Technician.

ISSUE:

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

FINDINGS OF FACT:

The Finding of Fact of the administrative law judge in appeal 15A-UI-09508-S1-T are adopted and incorporated herein as if set forth at length.

On August 24, 2015, the employer appealed the August 12, 2015, reference 02, representative's decision that stated the claimant had good cause for refusing work from the employer. This decision was issued in the September 7, 2014, claim year. On September 23, 2015, this administrative law judge affirmed that decision. The employer appealed this administrative law judge's decision on October 8, 2015. On November 3, 2015, the Employment Appeal Board affirmed this administrative law judge's decision. It also remanded the issue of the claimant's separation from employment to the Appeals Section.

The issue of the claimant's separation from employment had been addressed in decisions by Iowa Workforce Development for the September 13, 2015, claim year. On October 1, 2015, a representative's decision was issued under reference 02. It stated the claimant was not eligible to receive unemployment insurance benefits because she voluntarily quit work without good cause attributable to the employer. The claimant did not appeal the decision. On October 12, 2015, a representative's decision was issued under reference 07. It amended reference 02. The amended decision found the claimant eligible to receive unemployment insurance benefits and said the employer may be charged. The employer did not appeal this decision. On December 10, 2015, the representative issued a decision under reference 09. It found the decision dated October 12, 2015, reference 07, null and void. On December 11, 2015, the representative issued a decision under reference 10. It found the claimant eligible to receive benefits as long as she met all other requirements. The employer's account may be charged.

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 as of July 6, 2015. 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. A claimant cannot separate herself from employment after she has already been separated. She cannot quit after having been laid off. The claimant's separation was due to a layoff, not a voluntary quit. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's August 12, 2015, decision (reference 02) is affirmed. 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/pjs