

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER M HEWITT
Claimant

APPEAL NO. 12A-UI-05207-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA STATE UNIVERSITY
RECRUITMENT & EMPLOYMENT OFFICE**
Employer

OC: 03/25/12
Claimant: Respondent (1)

871 IAC 24.1(113)a – Short Term Layoff

STATEMENT OF THE CASE:

Iowa State University filed a timely appeal from a representative's decision dated April 25, 2012, reference 02, which held claimant eligible to receive unemployment insurance benefits beginning March 25, 2012 finding that the claimant was considered able and available for work and on a short-term layoff. After due notice, a telephone hearing was held on May 29, 2012. Claimant participated personally. The employer participated by Ms. Andrea Little, Human Resource Specialist.

ISSUE:

The issue is whether the claimant is able and available for work and on a short-term layoff.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Christopher Hewitt began employment with Iowa State University in August 2007. On or about October 13, 2011, Mr. Hewitt was transferred into a job position that was funded in part by outside sources which limited the funding to a maximum of 780 hours per fiscal year. In late March of 2012 Mr. Hewitt's supervisor reminded him that his contractual position of clerical helper was soon to reach the 780-hour limit and the claimant's employment would temporarily come to an end at that time until July 1, 2012 when a new fiscal year began and the claimant would be potentially eligible for an additional 780 hours of contractual employment during the new fiscal year. Mr. Hewitt completed the 780-hour limit of working hours available to him during the current fiscal year and was informed that no further work was available to him at that time. Subsequently, Mr. Hewitt was offered and accepted a different position with Iowa State University on May 8, 2012.

It is the employer's position that the claimant is ineligible to receive unemployment insurance benefits between the time that his employment ended after completing the 780 hours of available work and the time that he would be available for an additional 780 hours of employment when the new fiscal year began on July 1, 2012.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant is able and available for work and on a short-term layoff. He is.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

In the case at hand, the evidence in the record establishes that Mr. Hewitt began a period of contracted employment for the period of 780 hours for the fiscal year 2011-2012 on October 13, 2011 and completed the agreed upon 780 hours of employment. Mr. Hewitt's employment with Iowa State University came to an end by the terms of the agreement of hire when he fulfilled the contract by completing 780 hours of work within the fiscal year. The claimant was separated at that time under non disqualifying conditions based upon the employer's statements to Mr. Hewitt that he would be offered additional employment with Iowa State University within a reasonable period of time when the new fiscal year began; the claimant was not required to seek employment with other perspective employers. Prior to the beginning of the new fiscal year, Iowa State University offered Mr. Hewitt additional employment in a different capacity which Mr. Hewitt accepted. The claimant was not precluded from claiming and receiving unemployment insurance benefits for the period of time between fiscal years because his unemployment was not caused by a period between two successive academic years or terms but was based upon the claimant's completion of the agreement of hire that he would be given a maximum of 780 hours during the fiscal year. Claimant's separation from employment thus took place under non disqualifying conditions.

DECISION:

The representative's decision dated April 25, 2012, reference 02, is affirmed. The claimant is considered to be able and available for work and was laid off under non disqualifying conditions and is eligible to receive unemployment insurance benefits, providing he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs