

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**LEIGH A BAGSHAW
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HOSPITAL
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**Appeal Number: 05A-UI-02760-H2T
OC: 01-23-05 R: 01
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 9, 2005, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on March 9, 2005. The claimant did participate. The employer did participate through Kathy Heuwinkel, Benefits Specialist.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a CNA part-time beginning November 10, 2003 through January 23, 2005 when she was laid off due to lack of work. On January 12, 2005, the claimant was sent a letter indicating that her job was being eliminated in the intensive care unit. Up until the time the claimant received the lay off letter she had primarily worked only on weekends, as she was

a full-time nursing student. Occasionally, during school vacations or breaks she would fill in and work additional shifts. No other job was offered to the claimant. The employer has not established that the claimant was ever offered any other CNA position.

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 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.

The claimant was the only person with first hand knowledge of any conversation between her and her supervisor. She has credibly testified that she was not offered any other work. The claimant's layoff letter from the employer clearly indicated her weekend position was being eliminated. Had the claimant's job not been eliminated she would have continued working for the employer. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The March 9, 2005, reference 03, decision is reversed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

tkh/sc