

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMBER R VAN VALKENBURG
Claimant

APPEAL NO. 13A-UI-14044-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GMRI INC
Employer

**OC: 11/17/13
Claimant: Appellant (2)**

871 IAC 24.1(113)a - Layoff

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 17, 2013, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on January 15, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant laid off due to lack of work?

FINDINGS OF FACT:

The claimant worked part time as a server for the employer at the Longhorn Steakhouse from June 2012 to October 11, 2012.

The next day the claimant was on the schedule to work was November 2, 2013. She reported to work but was told by the manager that the restaurant was overstaffed and she was not needed. When she asked to stay, she was told that she could see if one of the servers who was working wanted to leave and she could work in her place. She asked the other servers if she could work for them, but no one wanted to leave. She was then sent home. She was not put back on the schedule. When she called in to see why she was not scheduled, she was told that the restaurant was overstaffed and business was slow.

She filed for unemployment insurance benefits effective November 17, 2013, because she was not scheduled to work.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

On the other hand, a claimant whose separation is a layoff is qualified to receive benefits, if the claimant is otherwise eligible. The rules define a layoff as “a suspension from pay status 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.” 871 IAC 24.1(113)a.

The evidence establishes that the claimant never quit employment and was not discharged for work-connected misconduct. She was laid off due to lack of work and is qualified to receive benefits, if she is otherwise eligible.

DECISION:

The unemployment insurance decision dated December 17, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs