

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

BRANDON L KIDDOO
Claimant

APPEAL NO: 20A-UI-04778-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 05/17/20
Claimant: Appellant (2)

Section 96 5-1 – Voluntary Leaving – Layoff
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 22, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 16, 2020. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant was laid off.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time sales manager for Carroll Cycle Center in January 2018. He suffered a stroke in March 2020 and was released to return to work with no restrictions at the end of April 2020. He returned to the employer to offer his services but the employer told the claimant he was laid off and he should file for unemployment. The employer has suggested the claimant not return until October 2020. The claimant's layoff is not due to COVID-19.

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 96.4-3 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".

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

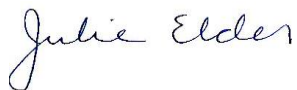
Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status 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.

While the claimant had a stroke in March 2020, he was released to return to work without restrictions at the end of April 2020, and is able and available for work. He notified the employer he was released and could return to work but was told to wait and that he should file for unemployment insurance benefits. The claimant is not on a leave of absence but instead has been laid off due to a lack of work by the employer. Therefore, the separation is attributable to the employer and benefits are allowed effective May 17, 2020.

DECISION:

The May 22, 2020, reference 01, decision is reversed. The claimant was laid off due to a lack of work and is able and available for work. Benefits are allowed, provided the claimant is otherwise eligible.



Julie Elder
Administrative Law Judge

June 30, 2020
Decision Dated and Mailed

je/sam