

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANICE A SWIRES
Claimant

APPEAL NO. 08A-UI-01896-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BETHANY MANOR INC
Employer

**OC: 02/10/08 R: 02
Claimant: Respondent (1)**

871 IAC 24.1(113)a – Layoff

STATEMENT OF THE CASE:

Bethany Manor, Inc. (employer) appealed a representative's February 22, 2008 decision (reference 02) that concluded Janice A. Swires (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 11, 2008. The claimant participated in the hearing. Dale Ullestad-Heneke appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant returned to working for the employer on September 25, 2006. She worked full time as a housekeeper in the employer's long-term care nursing facility. Her last day of work as an employee of the employer was October 29, 2007.

As of October 29, 2007, the employer outsourced its housekeeping staff, including the claimant, to an outside provider, HealthCare Services Group. A separate representative's decision issued on March 4, 2008 (reference 01) addresses the claimant's later separation from that subsequent employer. After October 29, 2007 there was no separate employment or work available to the claimant to continue her employment with the employer itself.

REASONING AND CONCLUSIONS OF LAW:

A separation is disqualifying if it is a voluntary quit without good cause attributable to the employer or if it is a discharge for work-connected misconduct.

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.

The separation between the claimant and the employer was a layoff by the employer due to the outsourcing of her work and position to the outside provider; the employer had no work it could provide to the claimant. As there was not a disqualifying separation, benefits are allowed if the claimant is otherwise eligible.

DECISION:

The representative's February 22, 2008 decision (reference 02) is affirmed. The claimant was laid off from the employer as of October 29, 2007 due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css