

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**LAUREN A BLUMBERG**

Claimant

**APPLEWHITE DENTAL LLC**

Employer

**APPEAL NO. 20A-UI-03652-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**

**Claimant: Appellant (4/R)**

Iowa Code Section 96.5(1) – Layoff

**STATEMENT OF THE CASE:**

Lauren Blumberg filed a timely appeal from the May 1, 2020, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Blumberg voluntarily quit the employment on December 19, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on May 20, 2020. Ms. Blumberg participated. The employer did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO and WAGEA, the Agency's determination that Cordental Group Management, L.L.C. (employer account number 623078) is a new employer for unemployment insurance liability purposes, rather than successor to Applewhite Dental, L.L.C. (employer account number 364484).

**ISSUES:**

Whether the claimant was discharged for misconduct, voluntarily quit without good cause attributable to the employer, or was laid off from the Applewhite Dental employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Lauren Blumberg was employed by Applewhite Dental, L.L.C. (employer account number 364484) as a full-time Registered Dental Assistant from 2013 until the employer sold its business to Cordental Group Management, L.L.C. (employer account number 623078) effective May 30, 2019. At the time of the transfer, Ms. Blumberg immediately became an employee of Cordental and continued to work for the new employer as a full-time Registered Dental Assistant until December 19, 2019 and received wages from the new employment.

Iowa Workforce Development had determined that Cordental Group Management, L.L.C. (employer account number 623078) is a new employer for unemployment insurance liability purposes, rather than a successor to Applewhite Dental, L.L.C. (employer account number 364484).

## REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 24.1(113) provides as follows:

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.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

Iowa Code section 96.5(1)(i) 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. But the individual shall not be disqualified if the department finds that:

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3. However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the benefits paid which are based on the wages paid by the transferring employer shall be charged to the unemployment compensation fund provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph "b". Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The evidence in the record establishes that Ms. Blumberg was effectively laid off from the Applewhite Dental employment effective May 30, 2019, when that employer sold its business to Cordental Group Management. The layoff from the Applewhite Dental employment would not disqualify Ms. Blumberg for benefits. Ms. Blumberg is eligible for benefits, provided she meets all other eligibility requirements. Because Ms. Blumberg accepted suitable work with Cordental Group Management in connection with the business transfer and was paid wages by that new, non-successor employer, the benefits paid to Ms. Blumberg that are based on the wages paid by Applewhite Dental shall be charged to the unemployment compensation fund.

The fact-finding interview process that led to the May 1, 2020, reference 01, decision appears to have conflated the Applewhite Dental employment with the subsequent Cordental Group Management employment to arrive at an erroneous December 19, 2019 separation to the Applegate Dental employment. Because that separation from Cordental Group does not appear to have been adjudicated by the Benefits Bureau, this matter will be remanded to the Benefits Bureau for further proceedings pertaining to the claimant's December 2019 separation from Cordental Group Management, L.L.C.

**DECISION:**

The May 1, 2020, reference 01, decision is modified in favor of the claimant as follows. The claimant was laid off effective May 30, 2019. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The employer account of Applewhite Dental, L.L.C., shall not be charged for benefits. The benefits paid to the claimant that are based on the wages paid by Applewhite Dental shall be charged to the unemployment compensation fund.

This matter is remanded to the Benefits Bureau for further proceedings pertaining to the claimant's December 2019 separation from Cordental Group Management, L.L.C.



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James E. Timberland  
Administrative Law Judge

May 29, 2020  
Decision Dated and Mailed

jet/scn