

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**CHAD R JACKSON**  
Claimant

**TITAN TIRE CORPORATION**  
Employer

**APPEAL 16A-UI-10853-DGT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/20/15**  
**Claimant: Respondent (1)**

---

Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work  
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated October 7, 2016, (reference 06) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 19, 2016. Employer participated by Mike Gerlach, Human Resources Manager. Claimant failed to respond to the hearing notice and did not participate.

**ISSUE:**

The issue in this matter is whether the claimant was temporarily laid off due to a lack of work?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on June 10, 2016. Claimant was laid off for lack of work at that time. The claimant was not being paid, and started looking for work elsewhere a couple weeks after the separation from the employment.

The claimant has since been permanently separated from employment. There was no work available from this employer from June 10, 2016 through August 16, 2016.

**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 § 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 Admin. Code r. 871-24.22(2)c provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

c. Intermittent employment. An individual cannot restrict employability to only temporary or intermittent work until recalled by a regular employer.

Iowa Admin. Code r. 871-24.23(27) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

Iowa Admin. Code r. 871-24.2(1)c,(2),(3) provide that group "1" claimants are those who no longer meet the definition of group "3" claimants if they are temporarily unemployed for a period "not to exceed four consecutive weeks" because of a lack of work.

Claimant was separated from the employment and there was no work available to him for over Two months. Claimant was not separated from the employment because of misconduct. Claimant did not voluntarily quit. He was permanently laid off, and is eligible for benefits.

**DECISION:**

The October 7, 2016, (reference 06) unemployment insurance decision is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

---

Duane L. Golden  
Administrative Law Judge

---

Decision Dated and Mailed

dlg/pjs