

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

TESSA A GREENWOOD
Claimant

MERCY HEALTH SERVICES-IOWA CORP
Employer

APPEAL 23A-UI-02239-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/11/22
Claimant: Respondent (1)

Iowa Code § 96.1(a) – Voluntary Quit from Employment
Iowa Admin. Code r. 871-24.1(113)a – Definition of Layoff

STATEMENT OF THE CASE:

On March 2, 2023, employer Mercy Health Services filed an appeal from the February 21, 2023 (reference 05) unemployment insurance decision that allowed benefits based on a determination that claimant was dismissed from employment due to a staff reduction. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Monday, March 20, 2023. Claimant Tessa A. Greenwood participated. Employer Mercy Health Services participated through witness Brenda Cox, Human Resource Specialist; and was represented by Jennifer Kim-Pierce. Employer's Exhibit 1 was received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUES:

Was the claimant's separation a layoff due to a lack of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Mercy Health Services on November 20, 2020. She was hired to work part-time hours as needed as a "door screener." Claimant's employment ended on September 6, 2022, when the employer ended the assignments of all door screeners.

In September 2022, the CDC determined that entities like the employer were no longer required to have screeners at their entrances. After this decision came out, the employer laid off all its door screeners. Claimant was notified by an employee from HR that the employer no longer had work for her and she was being laid off from her job. No continued work was available for employees who worked as door screeners, including claimant.

The administrative record reflects that claimant has received unemployment insurance benefits in the amount of \$5,040.00, since filing a claim with an effective date of September 11, 2022, for the sixteen weeks between September 11, 2022 and December 31, 2022. The administrative

record also establishes that the employer did participate in the fact-finding interview. Cox recalled participating in an earlier telephone call with Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was laid off due to a lack of work.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

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. 24.1(113) defines "separations" as follows:

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.

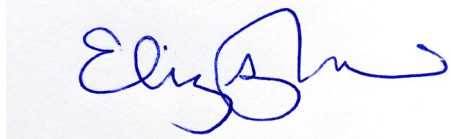
d. *Other separations.* Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

(Emphasis added.) Once the CDC stopped requiring the employer to have door screeners, the employer stopped employing people in these positions and had no more work for them. The fact that claimant knew her employment was temporary does not affect her eligibility for benefits. The parties agree that claimant's employment ended on September 6, 2022, when she was laid off by the employer due to a lack of work. As claimant's employment ended due to a lack of work, and not through any disqualifying misconduct or because she quit, benefits are allowed.

As claimant is eligible for benefits based on her separation from employment, the issues of overpayment and chargeability are moot.

DECISION:

The February 21, 2023 (reference 05) unemployment insurance decision is affirmed. Claimant was laid off due to the termination of her temporary employment and because of a lack of work. Benefits are allowed, provided she is otherwise eligible.



Elizabeth A. Johnson
Administrative Law Judge

March 21, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.