

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TONY F JACKSON
Claimant

NCS PEARSON INC
Employer

APPEAL 17A-UI-07906-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/02/17
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting – Layoff due to lack of work
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the July 26, 2017 (reference 01) unemployment insurance decision that denied benefits based upon the determination that he voluntarily quit work. The parties were properly notified of the hearing. A telephone hearing was held on September 22, 2017. The claimant, Tony F. Jackson, participated personally. The employer, NCS Pearson Inc., did not participate. The administrative law judge took official notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUES:

Was the claimant laid off due to lack of work?
Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant is employed full-time as a seasonal employee. His job title is machine operator. He began his employment on February 22, 2014 and continues to be employed to date as a seasonal employee. Claimant typically works from 3:00 p.m. to 11:00 p.m. Monday through Friday each week with occasional weekend shifts. Claimant was working a project manufacturing testing booklets. Claimant is typically laid off each year when the project is complete. Troy Simmons is claimant's immediate supervisor.

Claimant was arrested after his work shift on March 13, 2017 for driving under the influence. He was incarcerated at the Linn County Jail from March 13, 2017 until Saturday, March 18, 2017.

On March 14, 2017 claimant left a message for Mr. Simmons, stating that he was incarcerated and unable to work. Claimant's mother spoke to Mr. Simmons on March 14, 2017 as well to inform him that claimant was incarcerated and unable to come to work.

On March 15, 2017 claimant was able to speak to Mr. Simmons personally and informed him that he was incarcerated and unable to work the remainder of the week. Mr. Simmons allowed claimant to use his vacation time he had accrued to account for the missed work shifts.

On Monday, March 20, 2017 claimant returned to the employer for work. However, Mr. Simmons informed him that the project he was working on had ended and he was now temporarily laid off.

Claimant did not voluntarily quit his employment. Claimant was not discharged from employment. Claimant is laid off from this employer at this time. Claimant expects to return to work in October of 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is temporarily laid off from employment. Benefits are allowed.

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. 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.

Claimant was not discharged and did not voluntarily quit his employment. Claimant has been temporarily laid off due to lack of work. Because the temporary separation was attributable to a lack of work by the employer, benefits are allowed.

DECISION:

The July 26, 2017 (reference 01) unemployment insurance decision denying benefits is reversed. The employer temporarily laid off claimant due to lack of work. Benefits are allowed, provided he is otherwise eligible.

Dawn R. Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs