

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDSAY J REYNOLDS**  
Claimant

**APPEAL NO. 13A-UI-09889-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALUI DESTAN**  
Employer

**OC: 05/05/13**  
**Claimant: Respondent (1)**

871 IAC 24.1(113)a - Layoff

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from a representative's decision dated August 23, 2013, reference 03, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on October 1, 2013. Claimant participated. The employer participated by Ms. Sandra Lopez, Manager.

**ISSUE:**

The issue is whether the claimant's separation from employment is caused by the claimant being laid off work.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Lindsay Reynolds began employment with the captioned employer d/b/a Riverside Restaurant on May 21, 2013. Ms. Reynolds was hired to work as a part-time waitress and was paid by the hour. Her supervisor was Sandra Lopez.

Ms. Reynolds' scheduled work hours fluctuated substantially from week to week. At times the claimant was scheduled for work but found that the employer had changed the schedule and removed the claimant from the scheduling for that particular work shift. At times the claimant was taken off the schedule for periods of one week without explanation. Subsequently, the employer would indicate that the claimant had been given a disciplinary suspension. Claimant, however, had not received any written warnings nor any indication from her manager of the reason that she was being removed from the schedule without advanced notices.

Ms. Reynolds last worked on August 16, 2013 and personally checked the upcoming schedule for the next week and found that she was not scheduled to work again. The claimant verified with another worker during the week beginning August 19 that she was not on the work schedule. The claimant attempted to contact the company co-owner to resolve the issue but was unable to meet with the co-owner because of conflicts in the scheduling on both sides. When Ms. Reynolds determined that she had once again been removed from the schedule

without advanced notice or explanation, she concluded that she had again been laid off work. Although Ms. Reynolds left a message for the manager to contact her if she was needed for work, claimant received no further contact from this employer.

It is the employer's position that Ms. Reynolds should have known that she was later scheduled the next week and that the claimant quit employment by failing to report for a scheduled work shift.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

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 administrative law judge concludes based on the evidence in the record that the claimant did not choose to voluntarily leave her employment but that the claimant was laid off by the employer when she found her name not scheduled to work for an entire week and verified with another employee that week that her name had not been replaced on the schedule.

The evidence in this case is highly disputed. The administrative law judge concludes based upon the totality of the testimony in the record that Ms. Reynolds was reasonable in concluding that she had been laid off. The employer had a habit of removing employees' names from scheduling for a week or more without advanced notice or reason. Although the claimant was able and available for work, she was reasonable in her conclusion that she had been laid off due to lack of work when she had not been scheduled and was again given no reason for the lack of scheduling for an extended period. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated August 23, 2013, reference 03, is affirmed. The claimant was laid off under non disqualifying conditions. The layoff was caused by the employer. Claimant is eligible to receive unemployment insurance benefits, provided that she meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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