

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRENDA F WORRELL
Claimant

APPEAL 17A-UI-07865-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NESTLE USA INC
Employer

OC: 04/30/17
Claimant: Appellant (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:

Claimant filed an appeal from a decision of a representative dated July 28, 2017, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 21, 2017. Claimant participated. Employer participated by Blair Tobey, Human Resources Generalist. Employer's Exhibit 1 was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant still works for employer full-time as a line operator. Claimant accepted a voluntary lay off period for the week ending July 8, 2017.

Claimant is employed full-time, and she is periodically laid off by employer for a lack of work. Employer did have work available for claimant for the week ending July 8, 2017, but claimant chose to take a voluntary lay-off during that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was voluntarily laid off.

Iowa Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.1 provides:

Definitions. Unless the context otherwise requires, the terms used in these rules shall have the following meaning. All terms which are defined in Iowa Code chapter 96 shall be construed as they are defined in Iowa Code chapter 96.

24.1(113) *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.

The claimant agreed to a voluntary layoff for the week ending July 8, 2017. There was work available to her for that week. Therefore, the temporary separation was not attributable to a lack of work by the employer. Benefits are denied for the week ending July 8, 2017. Claimant may be eligible for benefits during any week where she is involuntarily laid-off work by employer.

DECISION:

The July 28, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant was voluntarily laid off for the week ending July 8, 2017. Benefits are denied for that week.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/rvs