

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TERRY L ALEXANDER**  
Claimant

**FLAGGER PROS USA LLC**  
Employer

**APPEAL 17A-UI-00340-DL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/11/16**  
**Claimant: Respondent (4)**

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Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work  
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 5, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on February 1, 2017. Claimant participated. Employer participated through Human Resource Manager Victoria Johnson.

**ISSUES:**

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits, or was he laid off due to a lack of work?  
Has the claimant requalified for benefits since the separation from this employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time seasonal flagger through November 4, 2015. He was laid off due to a lack of work because of seasonal conditions. He exhausted his benefits on the November 8, 2015, claim by the week-ending February 27, 2016. When the employer attempted to recall him to work on March 6, 2016, he did not have a vehicle so was not eligible to be reemployed. He found other employment in the second quarter of 2016, and requalified during the third quarter of 2016. He filed the most recent claim effective December 11, 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 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 laid off due to a seasonal lack of work in November 2015, and is entitled to benefits, which were exhausted before he was recalled, but was unavailable for work. Since he established his availability by finding other work and requalifying for benefits before filing another claim year, no remand is ordered, no period of ineligibility or disqualification is imposed and the account of the employer shall not be chargeable in the 2016 claim year.

**DECISION:**

The January 5, 2017, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible. Because he requalified after exhausting the benefits from the 2015 claim year and filing the 2016 claim year, any potential disqualification based upon Iowa Code sections 96.4(3) or 96.5(3)a is removed and charges shall be made to subsequent employers or the fund.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs