

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMMY L GORDON
Claimant

VETTERS INC
Employer

APPEAL 17A-UI-01204-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/08/17
Claimant: Respondent (1-R)

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:

The employer filed an appeal from the January 30, 2017 (reference 01) unemployment insurance decision that allowed benefits based upon a determination that claimant was laid off by this employer due to a lack of work. The parties were properly notified of the hearing. A telephone hearing was held on February 22, 2017. The claimant, Tammy L. Gordon, participated. The employer, Vettters, Incorporated, d/b/a Culligan, participated through attorney Sean W. Wandro. The administrative law judge took official notice of the administrative record.

ISSUE:

Was claimant laid off due to a lack of work from the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a customer service representative, beginning August 2004. Claimant worked for Vettters, Incorporated (“Vettters”), an entity that operated five locations. On December 31, 2016, at 11:59 p.m., Vettters transferred three of its locations, including the Davenport location where claimant worked, to K&S H2O, a separate business entity.

As of January 1, 2017, Vettters no longer operated a location in Davenport and therefore it had no work for claimant. Following the business transfer, claimant was permanently separated from her employment. That separation has not yet been determined at the claims level.

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. Benefits are allowed, provided claimant is otherwise eligible.

Iowa Code §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.

Here, claimant separated from her employment with Vettters after Vettters ceased running the Davenport location where claimant worked. This separation was not for any misconduct, and it was not a voluntary quit on claimant's part. Rather, this is most aptly described as a layoff, as the employer no longer had any work at the Davenport location for claimant to perform. Benefits are allowed based on this separation.

DECISION:

The January 30, 2017 (reference 01) unemployment insurance decision is affirmed. Claimant was laid off due to a lack of work. Benefits are allowed, provided she is otherwise eligible.

REMAND:

Following claimant's separation from Vettters, Incorporated., she separated from the successor employer, K&S H2O. This separation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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