

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE K LARSON

Claimant

APPEAL NO: 14A-UI-03783-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPENCER LIVESTOCK SALES INC

Employer

OC: 01/12/14

Claimant: Respondent (5)

871 IAC 24.1(113)a – Layoff
Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

Spencer Livestock Sales, Inc. (employer) appealed a representative's March 31, 2014 decision (reference 02) that concluded Julie K. Larson (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 29, 2014. The claimant participated in the hearing. Luke Muhlbauer appeared on the employer's behalf. One other witness, Katie Muhlbauer, was available on behalf of the employer but did not testify. This appeal was consolidated for hearing with one related appeal, 14A-UI-03784-DT, involving claimant Morris Larson, who also participated in the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct? Is the claimant disqualified due to refusing an offer of suitable work?

FINDINGS OF FACT:

The claimant started working for the employer on or about February 18, 2012. She worked full time as office manager in the employer's livestock sales business; one day per week she worked as cook in the connected café. Her last day of work was January 16, 2014. The former owner, Leon Farrell, had communicated to her in about mid-December that her employment would be ended in mid-January because he was selling the business to Muhlbauer. The sale was finalized on January 17.

There was never any direct communication between the claimant and Muhlbauer regarding any possibility about her continuing on in her employment after the sale became final. In late December or in early January, no later than about January 7, Muhlbauer had spoken with the claimant's husband, Morris Larson, who was the operations manager under Farrell's ownership, and had inquired if the claimant would be interested in staying on in the part-time cook position.

Morris Larson had indicated that he did not believe the claimant would wish to remain on in that basis.

The claimant established an unemployment insurance benefit year effective January 12, 2014.

REASONING AND CONCLUSIONS OF LAW:

A separation is disqualifying if it is a voluntary quit without good cause attributable to the employer or if it is a discharge for work-connected misconduct.

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.

The separation between the claimant and the employer was a layoff on January 16, 2014 by the employer under the prior ownership due to the sale of the business and the elimination of the claimant's full-time position. As there was not a disqualifying separation, benefits are allowed if the claimant is otherwise eligible.

A related issue in this case is whether the claimant refused a suitable offer of work. Iowa Code § 96.5-3 provides that a claimant will be disqualified for benefits if she has failed without good cause to accept suitable work when offered. However, applying this statute, rule 871 IAC 24.24(1)a provides that in order for there to be a disqualification for a refusal of work, there must have been a bona fide offer of work to the claimant by personal contact and a definite refusal was made by the claimant. Further, rule 871 IAC 24.24(8) provides that in order for there to be a disqualification, both the offer of work and the claimant's responding refusal must occur within the claimant's benefit year.

In this case, there was no bona fide offer of work to the claimant herself and no definite refusal of work after the separation from employment and after the beginning of the claimant's benefit year. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's March 31, 2014 decision (reference 02) is affirmed as modified with no effect on the parties. The claimant was laid off from the employer as of January 16, 2014 due to a lack of work. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css