

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA L HOPKINS**

Claimant

**APPEAL NO. 13A-UI-04453-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AREA XIV AGENCY ON AGING**

Employer

**OC: 03/03/13**

**Claimant: Respondent (1)**

871 IAC 24.1(113) – Layoff

Iowa Code Section 96.5(1)(i) – Liability of Transferring Employer

**STATEMENT OF THE CASE:**

Area XIV Agency on Aging filed a timely appeal from the April 8, 2013, reference 02, decision that allowed benefits to the claimant and that held the employer could be charged for benefits based on an agency conclusion that the claimant had been laid off effective June 30, 2012. After due notice was issued, a hearing was held on May 20, 2013. Claimant Linda Hopkins participated. Diann Bowers represented the employer. The administrative law judge took official notice of the agency's administrative record of base period wages reported for the claimant and of the agency's administrative determination of the successor relationship between Area XIV Agency on Aging and Southern Iowa Trolley.

**ISSUE:**

Whether Ms. Hopkins separated from her employment with Area XIV Agency on Aging for a reason that disqualifies her for unemployment insurance benefits or that relieves Area XIV Agency on Aging of liability for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Linda Hopkins was employed as a full-time safety coordinator for Southern Iowa Trolley from 2009. Until June 30, 2012, Southern Iowa Trolley was part of and under the administration of Area XIV Agency on Aging. Effective June 13, 2012, Southern Iowa Trolley became a separate, Iowa Code Chapter 28E entity, and was no longer associated with Area XIV Agency on Aging. Ms. Hopkins continued her same position after Southern Iowa Trolley became a separate entity and continued to work for Southern Iowa Trolley until her separation from Southern Iowa Trolley in March 2013.

Ms. Hopkins established a claim for unemployment insurance benefits that was effective March 3, 2013. Ms. Hopkins' base period for purposes of that claim consists of the fourth quarter of 2011, and the first, second and third quarters of 2012. Workforce Development records indicate that Ms. Hopkins' base period wage for the fourth quarter of 2011, and for the first and second quarters of 2012 were reported to Workforce Development under the employer

account number assigned to Area XIV Agency on Aging, account number 107395. \$500.00 of Ms. Hopkins' base period wages for the third quarter of 2012 were reported to Workforce Development under that same employer account number. An additional \$7,055.57 in wages for the third quarter of 2012 were reported to Workforce Development under employer account number 522149, the number assigned to Southern Iowa Trolley once it became a separate entity. Thereafter, Ms. Hopkins' quarterly wages were reported to Workforce Development under the new employer account number.

Workforce Development records indicate that Southern Iowa Trolley was deemed a mandatory successor to Area XIV Agency on Aging and received a transfer of Area XIV Agency on Aging's unemployment insurance "experience."

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

Iowa Workforce Development rule 871 IAC 24.1(113) provides as follows:

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.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

Iowa Code section 96.5(1)(i) provides as follows:

#### **96.5 Causes for disqualification.**

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. But the individual shall not be disqualified if the department finds that:

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3. However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the benefits paid which are based on the wages paid by the transferring employer shall be charged to the unemployment compensation fund *provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph "b".* Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

[Emphasis added.]

The weight of the evidence indicates that Area XIV Agency on Aging “transferred” a clearly segregable and identifiable part of its enterprise, Southern Iowa Trolley, to a new employer entity that continued to be known as Southern Iowa Trolley, but which was no longer under the umbrella of Area XIV Agency of Aging. The effect of the transfer on Ms. Hopkins was that it ended her employment relationship with Area XIV Agency on Aging. In other words, it effected a layoff. Ms. Hopkins’ June 30, 2012 separation from Area XIV Agency on Aging would not disqualify her for unemployment insurance benefits. Because the new employer entity, still known as Southern Iowa Trolley, received a partial transfer of the transferring entity’s unemployment insurance experience, both entities may be assessed for benefits paid to Ms. Hopkins. Area XIV Agency on Aging will not be relieved of liability for benefits paid to Ms. Hopkins.

**DECISION:**

The agency representative’s April 8, 2013, reference 02, decision is affirmed. The claimant was laid off effect June 30, 2012 and is eligible for benefits, provided she is otherwise eligible. Area XIV Agency on Aging may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs