

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEE TOLBERT III
Claimant

PEOPLEREADY INC
Employer

APPEAL 19A-UI-10029-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/14/19
Claimant: Appellant (2R)

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 claimant/appellant, Lee Tolbert III, filed an appeal from the December 16, 2019 (reference 07) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 15, 2020. The claimant participated personally. The employer, Peopleready Inc., participated through Amanda Tyler, staffing specialist.

Claimant Exhibits 1-3 were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a seasonal road flagger. The assignment was completed on November 20, 2019 and no additional work is available by the employer for the claimant until spring. Continuing work was not available after November 19, 2019. The claimant is eligible for rehire in the spring.

During the week of January 12-18, 2020, the claimant had surgery and intends to be discharged from the hospital by January 18, 2020.

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, 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(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.

In this case, the claimant involuntarily separated from employment because no work was available after November 20, 2019 when the employer's season ended. The claimant's separation was due to a lack of work. Benefits are allowed, provided he is otherwise eligible.

REMAND: The issue of whether the claimant meets the eligibility requirements of being able to and available for work for the week ending January 18, 2020 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. The issue of whether the claimant is able to and available for work beginning November 24, 2019 has been addressed through the reference 09 decision.

DECISION:

The unemployment insurance decision dated December 16, 2019, (reference 07), is reversed. The claimant was permanently laid off due to a lack of work. Benefits are allowed, provided he is otherwise eligible. **REMAND:** The issue of whether the claimant meets the eligibility requirements of being able to and available for work for the week ending January 18, 2020 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. **Note:** The issue of whether the claimant is able to and available for work beginning November 24, 2019 has been previously addressed through the reference 09 decision.

Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

Decision Dated and Mailed

jlb/scn