

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASON WORTOCK
Claimant

BERKLEY TECHNOLOGY SERVICES LLC
Employer

APPEAL 21A-UI-03833-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/20/20
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 20, 2021, (reference 02) unemployment insurance decision that denied benefits based upon the conclusion he voluntarily quit work. The parties were properly notified of the hearing. A telephone hearing was held on March 18, 2021. The claimant participated. The employer did not participate.

ISSUES:

1. Whether the claimant's separation from employment was disqualifying?
2. Whether the claimant was able and available for work effective September 15, 2021?

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 business analyst from March 31, 2008, until this employment ended on September 15, 2020, when he was laid off. His immediate supervisor was Product Owner / Team Lead Mike Urich.

At 9:00 a.m. on September 15, 2020, Mr. Urich sent the claimant an instant message informing him there would be a meeting that day. During the meeting, Mr. Urich and Human Resources Generalist Robin Middendorf explained to the claimant he would be laid off due to lack of work with approximately 35 other employees. The claimant was presented with a severance agreement. The claimant provided a copy of the agreement. (Exhibits A and B)

The claimant subsequently obtained employment two weeks later. The claimant made weekly claims for the weeks ending September 26, 2020 and October 3, 2020. The claimant did not receive payment for these weeks because his earnings were well in excess of his weekly benefit amount. The administrative record DBRO shows the claimant reported receiving \$999.00 for each week.

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.

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.

Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

The next issue to evaluate is whether the claimant was able and available. This issue is moot because the claimant was not totally, partially or temporarily unemployed for the weeks he made weekly claims.

Iowa Code section 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

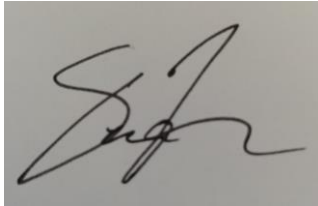
(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The administrative record DBRO shows the claimant reported earning \$999 for the weeks ending September 26, 2020 and October 3, 2020. Benefits are denied.

DECISION:

The January 20, 2021, (reference 02), decision is modified in favor of the appellant. The claimant was laid off due to a lack of work. However, benefits are not allowed because the claimant was not totally, temporarily or partially employed for the weeks he made weekly claims.

A handwritten signature in black ink, appearing to read 'S. Nelson', is shown within a rectangular frame.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

March 19, 2021
Decision Dated and Mailed

smn/lj