

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTWAIN T HARRIS
Claimant

APPEAL NO. 17A-UI-02181-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**WORLDWIDE TRANSPORTATION
SHIPPING**
Employer

OC: 01/29/17
Claimant: Appellant (2)

Iowa Administrative Code rule 871-24.1(113) – Layoff

STATEMENT OF THE CASE:

Antwain Harris filed a timely appeal from the February 21, 2017, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits. After due notice was issued, a hearing was held on March 21, 2017. Mr. Harris participated. The employer did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibits A and B were received into evidence.

The administrative law judge notes that the employer received three forms of notice for the hearing. The first was the hearing notice mailed to the employer on March 1, 2017. The second form of notice was the cover sheet that the Appeals Bureau attached to the Mr. Harris' appeal letter when the Appeals Bureau mailed a copy of the appeal letter to the employer on March 3, 2017. The third form of notice was the cover sheet that the Appeals Bureau attached to Mr. Harris' proposed exhibits when the Appeals Bureau mailed those documents to the employer on March 8, 2017.

ISSUE:

Whether Mr. Harris separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: In April 2016, Antwain Harris began his full-time employment with Worldwide Transportation Shipping. Mr. Harris worked as a delivery driver. Mr. Harris' immediate supervisor was Glen Merel. Mr. Merel was the McCook, Illinois terminal manager for Holland Freight. Mr. Harris worked from the McCook terminal and delivered various freight items to western and northern suburbs of Chicago. From the start of the employment until November 2016, the employment provided full-time, Monday-through-Friday work. Mr. Harris would start his work day at the McCook termination at 11:30 a.m. or noon and would complete his route sometime between 6:00 and 8:00 p.m.

In November 2016, the employer began to provide less work. The employer gradually reduced the days per week to one and then none. Mr. Merel would send out a text message each day to indicate whether there was work available. Mr. Harris last performed work for the employer on January 18, 2017. At that point, Mr. Merel told Mr. Harris that he would let him know when there was additional work for him. Mr. Harris continued thereafter to receive daily text messages indicating that no work was available.

REASONING AND CONCLUSIONS OF LAW:

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

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.

The weight of the evidence in the record establishes that Mr. Harris was laid off effective January 18, 2017. The evidence in the record establishes that Mr. Harris performed the work the employer had for him and that the employer last had work for him on January 18, 2017. Mr. Harris did not tell the employer he was quitting the employment and did not intend to quit the employment. Mr. Harris continued to receive daily, or near daily, updates indicating there was no work at the McCook terminal. The employer did not participate in the hearing. The employer did not present any evidence to rebut Mr. Harris testimony, which indicated a layoff, or to establish that Mr. Harris had voluntarily quit or been discharged for misconduct. The layoff does not disqualify Mr. Harris for unemployment insurance benefits. Contract Iowa Code Section 96.5(1) (concerning voluntary quits without good cause attributable to the employer) and 96.5(2)(a) (concerning discharges for misconduct in connection with the employment). Mr. Harris is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged.

DECISION:

The February 21, 2017, reference 01, decision is reversed. The claimant was laid off effective January 18, 2017. The claimant is eligible for benefits provided he meets all other eligibility requirements. The employer's account may be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs