

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEITH R TUBB
Claimant

APPEAL NO. 11A-UI-09852-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGESTONE RETAIL OPERATIONS LLC
Employer

OC: 06/12/11
Claimant: Appellant (2)

871 IAC 24.1(113) – Layoff

STATEMENT OF THE CASE:

Keith Tubb filed a timely appeal from the July 20, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 18, 2011. Mr. Tubb participated. The employer did not respond to the hearing notice and did not participate.

ISSUE:

Whether Mr. Tubb 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: Keith Tubb was employed by Bridgestone Retail Operations as a part-time general service employee from December 2009 until November 29, 2010, when Paul Tolle, Store Manager, told him he no longer had work for him and laid him off.

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.

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 § 96.5-1 provides:

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.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The employer failed to participate in the hearing and thereby failed to present any evidence to indicate a voluntary separation or if an involuntary separation would disqualify Mr. Tubb for unemployment insurance benefits. The evidence indicates that Mr. Tubb was laid off. Mr. Tubb is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

DECISION:

The Agency representative's July 20, 2011, reference 01, decision is reversed. The claimant was laid off effective November 29, 2010. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs

