

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL D WILLETT**  
Claimant

**APPEAL NO. 15A-UI-11586-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CNH AMERICA LLC**  
Employer

**OC: 01/04/15**  
**Claimant: Appellant (2/R)**

Iowa Code Section 96.19(38)(c) – Temporary Layoff

**STATEMENT OF THE CASE:**

Michael Willett filed a timely appeal from the October 8, 2015, reference 02, decision that denied benefits effective September 13, 2015, based on an Agency conclusion that Mr. Willett had requested a leave of absence. After due notice was issued, a hearing was held on November 2, 2015. Mr. Willett participated. Jill Dunlop, Human Resource Labor Relations Specialist, represented the employer.

**ISSUES:**

Whether Mr. Willett has been on a leave of absence since he established the additional claim for benefits that was effective September 13, 2015. Mr. Willett has not been on a leave of absence.

Whether Mr. Willett has been temporarily laid off since he established the additional claim for benefits that was effective September 13, 2015.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Michael Willett has been employed by CNH America, L.L.C., since 2013 as a full-time CNC machine operator. Mr. Willett's regular work hours are 6:00 a.m. to 2:30 p.m., Monday through Friday. Mr. Willett's immediate supervisor is Adam Hanson. From time to time, the employer had temporarily laid off Mr. Willett. Mr. Willett was temporarily laid off during the two-week period of September 20, 2015 through October 3, 2015. Mr. Willett returned to the full-time employment effective Monday, October 5, 2015 and continued to work full-time hours until Wednesday, October 21, 2015, when the employer again temporarily laid him off. Mr. Willett and the employer both expect that Mr. Willett will return to the full-time employment on Monday, November 9, 2015.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

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. Iowa Code section 96.19(38)(c).

Mr. Willett has at no point since September 13, 2015 been on a leave of absence.

The evidence establishes that there has been a series of temporary layoffs, but that Mr. Willett has continued to be attached to the employment. Mr. Willett was temporarily laid off during the two-week period of September 20, 2015 through October 3, 2015. Mr. Willett is eligible for benefits for that two-week period, provided he meets all other eligibility requirements. Mr. Willett was again temporarily laid off effective Wednesday, October 21, 2015 and continues to be temporarily laid off at this time. Mr. Willett and the employer both expect the temporary layoff to end on Monday, November 9, 2015. Effective the benefit week that started October 18, 2015, Mr. Willett has been on temporary layoff and is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged for the benefits paid to Mr. Willett during the two mentioned periods of temporary layoff.

Workforce Development records suggest that Mr. Willett has not made weekly claims for benefits in connection with either period of temporary layoff. For that reason, this matter will be remanded to the Benefits Bureau for adjudication of whether Mr. Willett has been available for work within the meaning of the law during the two-week period of September 20, 2015 through October 3, 2015 and since the benefit week that started October 18, 2015.

**DECISION:**

The October 8, 2015, reference 02, decision is reversed. The claimant has not been on a leave of absence since he established the addition claim for benefits that was effective September 13, 2015. The claimant was temporarily laid off during the two-week period of September 20, 2015 through October 3, 2015. The claimant is eligible for benefits for that two-week period, provided he meets all other eligibility requirements. The claimant was again temporarily laid off effective Wednesday, October 21, 2015 and continues to be temporarily laid off at this time. Effective the benefit week that started October 18, 2015, the claimant has been on temporary layoff and is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged for the benefits paid to the claimant during the two mentioned periods of temporary layoff.

In light of the claimant's apparent failure to make weekly claims, this matter is remanded to the Benefits Bureau for adjudication of whether the claimant has been available for work within the meaning of the law during the two-week period of September 20, 2015 through October 3, 2015 and since the benefit week that started October 18, 2015.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs