

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL J RUDEN
Claimant

APPEAL N. 08A-UI-01880-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HENTGES OIL LTD
Employer

**OC: 11/11/07 R: 01
Claimant: Respondent (1)**

871 IAC 24.1(113)a – Layoff

STATEMENT OF THE CASE:

Hentges Oil, Ltd. (employer) appealed a representative's February 21, 2008 decision (reference 01) that concluded Paul J. Ruden (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 13, 2008. This appeal was consolidated for hearing with one related appeal, 08A-UI-01879-DT, involving a second claimant, Patrick Ruden. The claimant and Patrick Ruden participated in the hearing. Carla Hentges appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in about September 2004. He worked part time as petroleum delivery helper two hours each Saturday when fuel deliveries were made to the claimant's full time employer. His last day directly working for the employer was on or about November 13, 2006. As of that date the employer sold its business operation to another vendor, Consolidated Energy, with which the claimant continued his employment for at least a short period of time. After November 13, 2006, no further work was available for the claimant with the employer.

REASONING AND CONCLUSIONS OF LAW:

A separation is disqualifying if it is a voluntary quit without good cause attributable to the employer or if it is a discharge for work-connected misconduct.

871 IAC 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 (lasting or expected to last more than seven consecutive calendar days without pay) 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.

The separation between the claimant and the employer was a layoff by the employer due to the sale of its business and the transfer of the claimant's work and position to the new vendor; the employer had no work it could provide to the claimant. As there was not a disqualifying separation, benefits are allowed if the claimant is otherwise eligible.

The final wages paid by the employer to the claimant are still within the claimant's base period of his current claim for unemployment insurance benefits. The chargeability of the employer's account for any benefits that might be paid to the claimant then rests on whether benefit payments extend long enough to reach the employer's wage credits pursuant to the inverse chronological order charging under Iowa Code section 96.3-5, and whether there has been a transfer of the wage credits and liability under Iowa Code section 96.7-2-a(2) and 871 IAC 23.28 and 871 IAC 23.30(1)(2) from the employer to the company who purchases its business.

DECISION:

The representative's February 21, 2008 decision (reference 01) is affirmed. The claimant was laid off from the employer as of November 13, 2006 due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css