

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**BRIAN M HINSHAW**  
Claimant

**INNOVATIVE SOFTWARE ENGINEERING**  
Employer

**APPEAL 16A-UI-07364-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/05/16  
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work  
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer filed an appeal from the June 22, 2016, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 22, 2016. The claimant participated personally. The employer participated through Kirsten Wennerstrom, director of human resources. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Was the claimant's separation a layoff due to a lack of work, a voluntary quit or discharge?  
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?  
Can any charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The undisputed evidence is the claimant began employment with this employer, Innovative Software Engineering, (account number: 321948-000) in 2005, and worked in QA assurance. Effective January 1, 2016, the company restructured, and split between two business entities, Innovative Software Engineering and ISE Fleet Services LLC (account number 547568-000), both under the same ownership.

At the employer's request, the claimant became an employee of ISE Fleet Services LLC and separation from Innovative Software Engineering occurred. As a result of the transition in accounting, the claimant stayed in the same position, at the same rate of pay, under the same position but was simply paid under a different business entity, ISE Fleet Services LLC. The claimant permanently separated from ISE Fleet Services LLC on June 1, 2016, and that separation was adjudicated in the June 22, 2016, (reference 02) initial decision.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$2,682.00, since filing a claim with an effective date of June 5, 2016. The administrative record also establishes that the employer did participate in the June 21, 2016, fact-finding interview by way of Deb Droll, controller.

### **REASONINGS AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was permanently separated from Innovative Software Engineering for no disqualifying reason.

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 Admin. Code r. 871-24.1(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.

In the case at hand, the employer initiated the claimant's separation from Innovative Software Engineering. As a result of the January 1, 2016 accounting reorganization, the claimant did not have the option to remain employed as an employee at Innovative Software Engineering. Though there was no break in employment as the claimant moved from Innovative Software Engineering, (account number: 321948-000) to ISE Fleet Services LLC (account number 547568-000), both which happen to be under the same management/ownership, a separation did occur, at the behest of the employer, and for no reason that would disqualify the claimant from benefits. Benefits are allowed, provided he is otherwise eligible.

Since the claimant is eligible for benefits, the issues of recovery of any overpayment and possible relief from charges are moot.

**DECISION:**

The June 22, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant was permanently laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible. The claimant has not been overpaid unemployment insurance benefits. The employer's account is not relieved of charges.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/pjs