

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELINE WILSON
Claimant

APPEAL NO: 16A-UI-01149-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAVID SCHEETZ
Employer

OC: 05/25/14
Claimant: Respondent (1)

Section 96 5-1 – Voluntary Leaving – Layoff
Section 96.4-3 – Able and Available for Work
Section 96.3-7 – Timeliness of Appeal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 3, 2014, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 22 and continued on February 24, 2016. The claimant participated in the hearing. David Scheetz, Director, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

ISSUE:

The issues are whether the employer's appeal is timely and whether the claimant was laid off.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the employer's last-known address of record on June 3, 2014. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 13, 2014. The appeal was not filed until January 29, 2016, which is after the date noticed on the disqualification decision. The appeal was not filed by the due date because the employer did not receive the decision and it appealed when it became aware the claimant had received unemployment insurance benefits in 2014.

The claimant sold her business to the employer in May 2014. The successor employer, Scheetz Holdings, offered employment to all other employees except for the claimant, who worked as the accountant/bookkeeper, and one other office employee. The claimant was also required to sign a non-compete agreement.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

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.

The successor employer, Scheetz Holdings, did not offer the claimant work with its company after the claimant sold her company to it. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The June 3, 2014, reference 01, decision is affirmed. The employer's appeal is timely. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs