

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THREASA M GUNDERSON**  
Claimant

**APPEAL NO. 14A-UI-00257-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KSUX/KSCJ BROADCASTING CO**  
Employer

**OC: 12/01/13**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Leaving - Layoff

**STATEMENT OF THE CASE:**

The employer filed an appeal from the December 31, 2013, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on January 30, 2014. Claimant participated along with her witness Candace Dash. Employer did participate through (representative) Dennis Bullock, General Manager; David Grosenheider, Director of Sales; and Candace Nash, Office Manager.

**ISSUE:**

Was the claimant laid off due to lack of work when the business was sold?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as an account executive beginning on in June 8, 2009 through December 4, 2013 when she was laid off due to lack of work. The employer sold the portion of the business that the claimant worked for to another employer, Rick. The claimant was told on December 3 that her job was being eliminated and that she should meet with the new business owner Rick to talk about working for him. On December 4 the claimant met with Rick. He asked her how much she was paid and when the claimant told him, he told her he could not pay her that much and that he would need to think about things before he could offer her a job. The claimant returned from the meeting and reported to Ms. Nash what had occurred. The claimant then met with Rick a second time on December 6 and again Rick did not offer her a job but told her he wanted to think about it some more. Rick then advised the claimant to file for unemployment insurance benefits. Ms. Nash confirmed that the claimant did report to her that Rick had not offered her a job and had told her to file for unemployment insurance benefits.

When the claimant worked for this employer she has a small Mary Kay and jewelry business on the side that the employer knew about and allowed. The claimant is not working for any other employer currently and is not and has never been employed by Creative Embroidery.

The claimant still has the employer's iPad and \$250.00 in receivables that she is obligated to return to the employer. Neither the iPad nor the receivables had anything to do with the claimant's separation from employment.

**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.

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 employer ended the claimant's job because they sold that part of the business she worked to in to another individual. The record shows the new employer did not offer the claimant employment. In any event, the subject of this case is the claimant's separation from this employer. Under these circumstances the claimant's separation is properly thought of as a layoff. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

The matter of the receivables and the employer's iPad are a potential criminal matter that the employer should handle through their local law enforcement agency.

**DECISION:**

The December 31, 2013, (reference 01) decision is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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