

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLINTON J POTTER**  
Claimant

**APPEAL NO. 15A-UI-01879-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GODBERSEN-SMITH CONSTRUCTION CO**  
Employer

**OC: 01/04/15**  
**Claimant: Respondent (5)**

871 IAC 24.1(113) – Layoff

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the February 9, 2015 (reference 01) decision that allowed benefits to the claimant, provided he was otherwise eligible, and that held the employer's account could be charged; based on an Agency conclusion that the claimant had involuntarily separated from the employment for no disqualifying reason. After due notice was issued, a hearing was held on March 12, 2015. Claimant Clinton Potter did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Karen Gunderson, Payroll Manager, represented the employer. The hearing in this matter was consolidated with the hearing in Appeal No. 15A-UI-01884-JTT, concerning claimant John Potter. The administrative law judge took official notice of the Agency's administrative record concerning benefits disbursed to John Potter. The administrative law judge took official notice of the fact-finding materials pertaining to John Potter for the limited purpose of documenting the employer's participation in the fact-finding interview. The administrative law judge took official notice of the Agency's administrative record concerning benefits disbursed to Clinton Potter; which record indicates that no benefits were disbursed to Clinton Potter.

**ISSUE:**

Whether the claimant separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Clinton Potter was employed by Godbersen-Smith Construction Company as a full-time laborer until December 19, 2014 when the employer laid him off for the winter with the intention of recalling him to the employment in the spring. Clinton Potter's father, John Potter, was employed by Godbersen-Smith Construction Company as a full-time equipment operator until December 12, 2014 when the employer laid him off for the winter with the intention of recalling him in the spring. On January 24, 2015 John Potter notified the employer that he and Clinton Potter would not be returning to the employment because they had accepted other employment and needed to participate in a crane operating class that was to start on February 23, 2015. At the time John Potter gave notice that he and his son would not be returning to the employment, the employer had not recalled either to the employment.

Clinton Potter established a claim for benefits that was effective January 4, 2015, but has received no benefits in connection with the claim.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Workforce Development rule 871 IAC 24.1(113)(a) provides as follows:

24.1(113) Separations;

All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status 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.

Because a layoff involves neither misconduct nor a voluntary quit, a layoff does not disqualify a claimant for unemployment insurance benefits and does not relieve an employer of liability for benefits. Contrast Iowa Code section 96.5(1) (concerning voluntary quits) and 96.5(2)(a) (concerning discharges for misconduct). The claimant's separation from the employment occurred in December 2014, when the employer laid off the claimant. The layoff would not disqualify the claimant for benefits or relieve the employer of liability for benefits. The claimant's decision, during the period of layoff, not to return to the employment does not alter the nature of the separation and would not disqualify the claimant for benefits or relieve the employer of liability for benefits. The claimant separated from the employment for no disqualifying reason. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

The administrative law judge notes that the claimant has not received any benefits in connection with the claim.

**DECISION:**

The February 9, 2015 (reference 01) decision is modified as follows. The claimant was laid off effective December 19, 2014. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/can