

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ERNEST H ROCK

Claimant

APPEAL NO. 14A-UI-06028-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCELENEY MOTORS INC

Employer

OC: 05/11/14

Claimant: Appellant (4)

Section 96.5-1 - Voluntary Quit
871 IAC 24.1(113)a - Layoff

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 9, 2014, reference 01, that concluded he had voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 3, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. John McEleney participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Was he laid off due to lack of work?

FINDINGS OF FACT:

The claimant worked full time for the employer as a body shop manager from October 2011 to May 30, 2014.

In December 2013, the claimant notified the employer that he had decided to leave employment sometime in the future if he was able to find a job working in the oil fields. There was no date set for this to happen, and the claimant intended to give the employer a definite ending day once he obtained the job.

In January 2014, the claimant became ill after receiving a flu shot. The illness was later diagnosed as Guillain-Barré Syndrome, a rare muscle disorder, and was believed to have been triggered by the flu shot. As a result, the claimant never actually did anything to obtain employment in the oil fields. The claimant continued working as the body shop manager.

Even though the claimant never gave notice of the date on which he would be quitting, the employer decided to find a replacement for him. In May 2014, the owner, John McEleney informed the claimant that because he had found a replacement for the claimant that he would be working half time as of May 12 and his last day of work would be May 30. The claimant told

McEleney that he was willing to continue to work, but the employer did not have any more work for the claimant after hiring the replacement.

The claimant filed a new claim for unemployment insurance benefits effective May 11, 2014, but reported earnings of \$750 per week for the weeks ending May 17, May 24, and May 31. His weekly benefit amount is \$424.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. On the other hand, a claimant whose separation is a layoff is qualified to receive benefits, if the claimant is otherwise eligible. The rules define a layoff as “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.” 871 IAC 24.1(113)a.

In this case, the claimant informed the employer that he intended to quit in the future, but never specified when. The employer in this case initiated the actual separation from employment by designating May 30 as his last day of work. He was willing to continue to work, but the employer no longer needed his services. The separation should be treated as a layoff due to lack of work after May 30.

The claimant is not eligible for benefits for the weeks between May 11 and May 31, 2014, because his wages exceed his earning limit of \$439. Iowa Code § 96.19-38-b (earning limit for partial unemployment insurance benefits is weekly benefit amount plus \$15).

DECISION:

The unemployment insurance decision dated June 9, 2014, reference 01, is modified in favor of the claimant. The claimant is qualified to receive unemployment insurance benefits effective June 1, 2014, if he is otherwise eligible. The claimant is not eligible for benefits for the weeks between May 11 and May 31, 2014.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs