

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHERRY COLEMAN
Claimant

APPEAL 22A-UI-01638-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHELLSBURG QUICK STOP INC
Employer

**OC: 10/31/21
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.73) – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 16, 2021, (reference 02) unemployment insurance decision that allowed benefits based upon the claimant being laid off for lack of work. The parties were properly notified of the hearing. A telephone hearing was held on February 9, 2022. The claimant, Sherry Coleman, participated personally. The employer, Shellsburg Quick Stop Inc, participated through Dianna Duncalf. Employer's exhibits were admitted into the record.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed beginning April 2, 2019. Claimant was a part time cashier. Claimant worked 30 hours, 5 days per week. Dianna Duncalf was claimant's immediate supervisor. Claimant remains employed with this employer. Claimant was laid off on September 15, 2021 due to the owner selling the business to AJ Katsay. Claimant was guaranteed five days per week and she worked five days per week until the day the Duncalfs' sold the business to Mr. Katsay.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

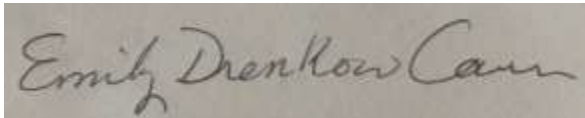
Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

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

On September 15, 2021, claimant's was laid off due to a lack of work. The layoff was an economic business decision and not, in any way, related to her performance. In this case, claimant was separated from employment through no fault of her own. Claimant was let go by the employer due to a lack of work. Therefore, the separation (layoff) was attributable to a lack of work by the employer. Benefits are allowed. Because of being laid off from work, claimant is obligated to make at least two searches during each week benefits are claimed. As benefits are allowed, the issues of overpayment and participation are moot.

DECISION:

The December 16, 2021, (reference 02) unemployment insurance decision is affirmed. The claimant was laid off when the owner, Dianna Duncalf, sold the business. Benefits are allowed, provided the claimant is otherwise eligible. The issues of overpayment and participation are moot.



Emily Drenkow Carr
Administrative Law Judge
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March 9, 2022
Decision Dated and Mailed

ed/kmj