

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JENNA M PHILLIPS
Claimant

APPEAL NO: 20A-UI-08971-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MILES DAVIS
Employer

OC: 04/19/20
Claimant: Appellant (2)

Section 96 5-1 – Voluntary Leaving – Layoff
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 13, 2020, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 14, 2020. The claimant participated in the hearing. Shelly Davis, Guardian of Miles Davis, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant was laid off.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time respite and day rehabilitation provider for Miles Davis from 2018 to April 15, 2020. The claimant was pregnant and the employer laid her off because she did not want to expose the claimant to COVID-19. The claimant is returning to work for the employer in October 2020.

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 section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph

“b”, unnumbered paragraph (1) or temporarily unemployed as defined in section 96.19, subsection 38, paragraph “c”. The work search requirements of this subsection and the disqualification requirement for failure to apply for or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph “h”.

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.

The employer laid the claimant off work because it was concerned she could contract COVID-19 during her pregnancy from the employer or her son because he has underlying medical conditions and was susceptible to getting the virus. The claimant will return to work for the employer in October 2020.

Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The August 13, 2020, reference 03, decision is reversed. 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

September 16, 2020
Decision Dated and Mailed

je/sam