

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ASHLEIGH M MILLWOOD
Claimant

APPEAL NO: 20A-UI-04861-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HELZBERGS DIAMOND SHOPS INC
Employer

OC: 03/22/20
Claimant: Appellant (2R)

Section 96 5-1 – Voluntary Leaving – Layoff

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 27, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 23, 2020. The claimant participated in the hearing. The employer did not respond to the hearing and did not participate in the hearing.

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 hired as a part-time seasonal sales person for Helzbergs Diamonds in January 2018. The claimant was laid off due to a lack of work because of COVID-19 on March 22, 2020. She has not been recalled to work yet.

The claimant works full-time hours from October to mid-March each year while her husband is laid off from his seasonal employer. When he returns to work the claimant works five to ten hours per pay period between mid-March and October each year so they do not have to rely on childcare.

There are issues regarding whether the claimant is able and available for work that have not yet been heard and adjudicated by the Benefits Bureau.

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 claimant was temporarily furloughed from her employment March 22, 2020, due to COVID-19. She is eligible to receive benefits as a result of the separation which was attributable to a lack of work by the employer. Therefore, benefits are allowed.

DECISION:

The May 27, 2020, reference 01, decision is reversed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

REMAND:

The issue of whether the claimant is able and available for work due to her not working full-time hours upon completion of the furlough due to childcare issues is remanded to the Benefits Bureau for an initial determination and adjudication.



Julie Elder
Administrative Law Judge

July 30, 2020
Decision Dated and Mailed

je/scn