

871—24.34 (96) Labor dispute—policy.

24.34(1) Reserved.

24.34(2) Union membership in and of itself is not the determinative factor in whether an individual is participating in, financing or directly interested in the labor dispute.

24.34(3) The relationship between employer and employee continues during the period of the labor dispute unless severed by the employer or employee.

a. If the relationship is severed by the employer, Iowa Code section 96.5(2) concerning discharge for misconduct shall govern.

b. If the relationship is severed by the employee, Iowa Code section 96.5(1) concerning voluntary leaving shall govern.

24.34(4) An individual who is unemployed because of a labor dispute and accepts employment elsewhere during the period of the labor dispute, must return to the previous employer when said labor dispute is settled or be subject to a determination on the issue of voluntary leaving.

24.34(5) Any individual unemployed because of failure or refusal to cross a picket line during a labor dispute shall be deemed to be involved in such labor dispute.

24.34(6) If an initial determination by the representative of the unemployment insurance services division of a labor dispute issue is appealed, the case shall be assigned to an administrative law judge, who shall receive the testimony of any party to the hearing and shall issue a decision on the labor dispute. Such decision may be appealed in conformity with these rules to the employment appeal board of the Iowa department of inspections and appeals.

24.34(7) An individual not involved in or participating in a labor dispute who failed to report to work because of a picket line shall be deemed to have voluntarily left employment. However, if the individual was subjected to hostility or violence in an attempt to cross a picket line, then the individual shall be deemed to have involuntarily left employment.

a. The division shall presume that any strike or lockout is being conducted in a lawful manner unless evidence to the contrary has been introduced. The division shall presume that any picketing is being conducted in a peaceful manner and that ingress or egress to the employer's facility is not being unlawfully impeded.

b. The division shall presume that where an injunction has been sought against actual or threatened violence, unlawful impedance of ingress or egress, or other unlawful conduct and such injunction shall have been denied on the basis that actual or threatened unlawful conduct has not been established that the picket line is peaceful unless evidence is introduced which establishes the violent nature of picket line activity.

c. If an injunction is obtained, the division shall presume the picket line is peaceful as of the date the injunction is issued unless evidence is introduced which proves the contrary proposition.

24.34(8) A lockout is not a labor dispute if the claimant is willing to continue working under the preexisting terms and conditions of the expired collective bargaining agreement for a reasonable period of time while a new collective bargaining agreement is negotiated. A lockout is a cessation of the furnishing of work to employees or a withholding of work from them in an effort to get more desirable terms for the employer.

a. The test for determining whether a stoppage of work is a lockout or labor dispute is to determine the final cause and the party ultimately responsible for the work stoppage. If the employees have offered to continue working for a reasonable period of time under the preexisting terms and conditions of employment so as to avert a work stoppage pending the final settlement of the contract negotiations and the employer refuses to maintain the status quo by extending the expired contract, the resulting work stoppage constitutes a lockout and the claimants shall not be disqualified because of a labor dispute.

b. A cessation of employment by the employer is not a lockout if:

(1) The stoppage of work is in the same facility or another facility of the employer and the claimant is directly involved in the labor dispute and the collective bargaining negotiations will directly affect the claimant's condition of employment, or

(2) The claimant or the recognized collective bargaining agent declines an offer from the employer to extend the expired collective bargaining agreement while negotiations continue for a reasonable period of time taking into consideration the nature of the employer's business, or

(3) The employer can demonstrate that its refusal to allow employees to continue working under the terms and conditions of the expired collective bargaining agreement is due to a compelling reason of such degree that the extension of the contract would be unreasonable under the circumstances.

24.34(9) To constitute a labor dispute there must be a stoppage of work at the plant or establishment. If there is no stoppage of work, the individual who leaves employment shall be deemed to have voluntarily quit.

24.34(10) When individuals, not as a group, union, or under union direction or suggestion but individually, left their work voluntarily in protest against the discharge of a fellow employee by their employer, in an unauthorized strike, it is held to be a voluntary quit.

24.34(11) Employment offered by an employer involved in a labor dispute or an employer who becomes involved in a labor dispute prior to acceptance by the claimant is considered:

a. Not suitable if the offer is made to a person who would be a new employee or a former employee who was laid off before the labor dispute and the vacancy was created by the strike, lockout, or other labor dispute.

b. Suitable if the offer was made to a former employee, who was previously laid off, provided the position offered is not vacant because of the strike, lockout, or other labor dispute and the provisions of section 96.5(4) shall apply.

c. Suitable if the offer is made to a new employee, who was not previously laid off by the same employer, and the vacancy was not created by a labor dispute.

24.34(12) Other employment accepted during periods of labor disputes does not free the claimant from the labor dispute section of the Iowa employment security law unless the claimant severs relationship with employer and obtains bona fide employment elsewhere.

This rule is intended to implement Iowa Code sections 96.5(3) and 96.5(4).