

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JON SCHUTTE
Claimant

APPEAL NO: 11A-UI-02763-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

KERRY INC
Employer

OC: 01-09-11
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 25, 2011, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 30, 2011. The claimant participated in the hearing. Heather Hobert, Human Resources Representative, 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 hired as a full-time frozen blending and packaging operator for Kerry, Inc., October 8, 2007, and is still employed in that capacity at this time. On December 20, 2010, the plant manager posted a memo in the break room notifying the eight employees in the claimant's department that due to maintenance issues on their line there would be a layoff scheduled the week of January 9, 2011. The memo indicated that employees who did not want to take the layoff could sign up and they would be assigned to another line. The claimant became aware of the layoff one week ahead of time when he was told by the supervisor. He did not know about the memo posted in the break room. The claimant checked the board in the break room every two weeks but did not see the memo. The supervisor did not tell the claimant the employer had other work available on other lines if he did not want to take the layoff. He was not on the schedule for the week of January 9, 2011.

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 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

The claimant's line was shut down for maintenance the week of January 9, 2011. While the employer posted a memo about the layoff which also stated the employees could work on another line that week, the claimant did not see the memo but heard about the layoff from his supervisor and was not scheduled the week of January 9, 2011. The claimant was not aware he could choose to work on another line that week. Because the claimant reasonably believed he was laid off the week of January 9, 2011, because of maintenance issues on his line, the layoff is attributable to a lack of work by the employer. Therefore, benefits are allowed.

DECISION:

The February 25, 2011, reference 01, decision is affirmed. 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

Decision Dated and Mailed

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