

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MOSES G RODRIGUEZ**  
Claimant

**APPEAL NO: 11A-UI-14596-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A & B WELDING & MFG**  
Employer

**OC: 03/20/11**  
**Claimant: Respondent (4)**

871 IAC 24.1(113)a – Lay-off/Seasonal Work  
Section 95.5-1 –Voluntary Quit  
871 IAC 24.25(37) – Resignation

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated November 4, 2011, reference 01, that held the claimant was laid-off for a lack of work on December 10, 2010, and benefits are allowed. A telephone hearing was held on December 7, 2011. The claimant did not participate. Tanya Kiel, Office Manager, participated for the employer.

**ISSUES:**

The issue is whether claimant was temporarily laid-off from work.

The issue is whether claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began working for the employer as a part-time laborer on May 5, 2010, and was placed on a seasonal lay-off on December 10. Claimant was re-hired on April 17, 2011. He ceased claiming unemployment benefits the week ending April 16. He signed and submitted to the employer a voluntary resignation form on August 26 that the employer accepted, and he worked to the end of his notice of period on September 15. He listed the reason for leaving is that he was moving out of state.

Claimant failed to respond to the hearing notice.

## **REASONING AND CONCLUSIONS OF LAW:**

871 IAC 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 (lasting or expected to last more than seven consecutive calendar days without pay) 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.

871 IAC 24.25(37) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The administrative law judge concludes the claimant was laid-off for lack of work on December 10, 2010 that is an employment separation for no disqualifiable reason.

The administrative law judge further concludes claimant voluntarily quit without good cause on September 15, 2011 to move out of state.

Claimant is allowed benefits by reason of his lay-off, but he is then disqualified effective September 15, 2011 due to his voluntary quit resignation.

**DECISION:**

The department decision dated November 4, 2011, reference 01, is modified. The claimant was laid-off for lack of work on December 10, 2010, and he is entitled to benefits up to his voluntary quit, provided he is otherwise eligible. Claimant voluntarily quit without good cause on September 15, 2011, and benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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