

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THEODORE J LAWINGER
Claimant

APPEAL NO. 11A-UI-10797-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JDFCEC (55-T) DUBUQUE WORKS
Employer

OC: 04/24/11
Claimant: Respondent (1/R)

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

JDFCEC (employer) appealed a representative's August 11, 2011, decision (reference 01) that concluded Theodore Lawinger (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 9, 2011. The claimant participated personally. The employer participated by Sandra Lynn, manager of labor relations. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on October 4, 2004, as a full-time robotic welder. The employer had a scheduled shutdown for the two-week period ending August 6, 2011. Employees are required to take vacation during that time period if they have vacation time available. If an employee does not have vacation time available, the employee is placed on a short-term layoff. The claimant was required to take 80 hours of vacation for the period ending August 6, 2011. He was paid \$980.72 of vacation pay for the two-week period ending August 6, 2011. The claimant reopened his claim for unemployment insurance benefits with an effective date of July 24, 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.

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.

The employer laid the claimant off for lack of work for the two week period ending August 6, 2011. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant is eligible to receive unemployment insurance benefits for that period, so long as he is otherwise qualified.

The issue of whether the vacation pay was deducted for the correct period is remanded for determination.

DECISION:

The representative's August 11, 2011 decision (reference 01) is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible. The issue of whether the vacation pay was deducted for the correct period is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw