

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENNETH D WOODLUND**  
Claimant

**APPEAL NO. 08A-UI-00650-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UNITED CONTRACTORS INC**  
Employer

**OC: 02-04-07 R: 02  
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving - Layoff  
Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 9, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 5, 2008. The claimant did participate. The employer did not participate.

**ISSUE:**

Was the claimant on a leave of absence or was he laid off due to lack of work?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was on a leave of absence to go deer hunting from December 1 through December 8. From December 8 through December 15, he was laid off due to lack of work during inclement weather. He returned to work the following week from December 17 through December 21. Beginning on December 24 the claimant was laid off for a two week Christmas shut down until January 7, 2008. He returned to work on January 7 and worked until February 3, 2008 when he went on vacation through February 9, 2008. The claimant will return to work on February 12, 2008.

**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 § 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.

Iowa Code § 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".

871 IAC 24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The claimant was on a leave of absence only through December 8, 2007 and from February 3 through February 9, 2008. He was laid off from work from December 8 through December 15 and again from December 24, 2007 through January 6, 2008. Therefore, the separation from December 8 through December 15 and from December 24, 2007 through January 6, 2008 was attributable to a lack of work by the employer. Benefits are allowed for those time periods. The claimant is not allowed benefits when he was on a leave of absence for vacation through December 8, 2007 and from February 3, 2008 through February 9, 2008.

**DECISION:**

The January 9, 2008, 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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs