

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JON M JACKSON
Claimant

APPEAL NO. 13A-UI-11261-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMFORTEC HEATING, COOLING
Employer

**OC: 09/22/13
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated October 2, 2013, reference 01, which held that the claimant was eligible for unemployment insurance benefits. After due notice, a hearing was held on October 30, 2013. The claimant participated personally. The employer participated by Brenda Jones, Owner/Vice President, and Teresa Reitz, service Sales and Installation Coordinator. The record consists of the testimony of Brenda Jones; the testimony of Teresa Reitz; the testimony of Jon Jackson; Claimant's Exhibits A-G; and Employer's Exhibit 1.

ISSUE:

Whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer does sales, service and installation of heating and cooling systems. The claimant was hired on December 19, 2011, to do full-time marketing. His last day of actual work was August 30, 2013. At that time, the claimant went off work due to a personal injury. He was not laid off on that date. His position was eliminated on September 26, 2013.

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.

The claimant is eligible for unemployment insurance benefits as of September 26, 2013, which is when the claimant was terminated by the employer. The reason for the termination was the elimination of his position. The representative determined that the claimant was laid off due to lack of work as of August 30, 2013. This finding is incorrect. There was no temporary layoff and there was a permanent separation of employment on September 26, 2013.

DECISION:

The decision of the representative dated October 2, 2013, reference 01, is affirmed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css