

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SALVADOR GARCIA
Claimant

APPEAL NO. 13A-UI-03290-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES
Employer

OC: 06/10/12
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

Axcess Staffing (employer) appealed a representative's March 8, 2013 decision (reference 02) that concluded Salvador Garcia (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 29, 2013. The claimant participated personally through Gisella Young, Interpreter. The employer was represented by Tom Halpin, Hearings Representative, and participated by Dennis Panosh, On-Site Manager. 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 considered all of the evidence in the record, finds that: The claimant was hired on October 10, 2010, as a temporary worker assigned to work at Rock Tenn Facility as a full-time packer. The claimant is scheduled to work 40 hours per week but sometimes the group leader sends the claimant and his co-workers home early because there is not enough work. The claimant was absent from work once in January 2013, because his daughter was hospitalized. The claimant filed for unemployment insurance benefits with an effective date of February 7, 2013, when his hours began to reduce.

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 has been laying the claimant off for lack of work each week for a few hours. 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.

DECISION:

The representative's March 8, 2013 decision (reference 02) is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css