

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARL R COARTNEY
Claimant

APPEAL NO. 10A-UI-08442-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MIDWEST INDUSTRIAL & MECHANICAL
INC**
Employer

OC: 03/28/10
Claimant: Respondent (5)

871 IAC 24.1(113) – Layoff

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 1, 2010, reference 01, decision that allowed benefits based on an Agency conclusion that the separation has been previously adjudicated by the State of Nebraska. After due notice was issued, a hearing was held on July 29, 2010. Claimant Carl Coartney participated. Matt Gollobit, Vice President, represented the employer. Mr. Gollobit provided testimony and then continued in the hearing a short time into the claimant's testimony. At that point, Mr. Gollobit became disruptive, disorderly and argumentative. When Mr. Gollobit would not desist, it was necessary for the administrative law judge to eject Mr. Gollobit from the hearing, pursuant to Iowa Administrative Code rule 871 IAC 26.14(12), in order to take the claimant's testimony and complete the hearing.

ISSUE:

Whether Mr. Coartney separated from the employment for a reason that would disqualify him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Carl Coartney was employed by Midwest Industrial & Mechanical, Inc., as a full-time welder from the fall of 2008 until March 30, 2009, when Matt Gollobit, Vice President, laid him off due to a slowing of work orders and the economy. The employer's decision to end the employment was not based on any misconduct on the part of Mr. Coartney.

REASONING AND CONCLUSIONS OF LAW:

The Workforce Development representative erroneously concluded that the claimant's separation from this employer had been previously adjudicated by the State of Nebraska.

Iowa Workforce Development rule 871 IAC 24.1(113) provides as follows:

24.1(113) Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

- a. Layoffs. A layoff is a suspension from pay status 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 labor-saving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.
- b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.
- c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.
- d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

- 2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The employer's testimony clearly indicated, as did the weight of the evidence, that the employer laid off Mr. Coartney due to a slowing of work orders and the economy. The lay-off would not disqualify Mr. Coartney for unemployment insurance benefits. Mr. Coartney is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

DECISION:

The Agency representative's June 1, 2010, reference 01, decision is modified as follows. The employer laid off the claimant on March 30, 2009. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs