

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT C DEPENNING

Claimant

APPEAL NO. 10A-UI-09470-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/16/10

Claimant: Appellant (2)

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving – Layoff
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Scott DePenning (claimant) appealed a representative's June 15, 2010 decision (reference 03) that concluded he was required to seek work and keep a record of job contacts because he was no longer temporarily separated from employment. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was scheduled for August 7, 2010. The claimant participated personally.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits.

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 laid off from work. He has a return to work date of August 9, 2010.

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 through August 8, 2010. 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. The claimant has a return to work date and is not required to seek work or keep a record of his job contacts.

DECISION:

The representative's June 15, 2010 decision (reference 03) is reversed. The claimant was laid off due to a lack of work. The claimant is not required to seek work or keep a record of his job contacts. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw