

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SCOTT R STONE
416 E DIVISION
ORIENT IA 50858

C L CARROLL CO INC
3623 SIXTH AVE
DES MOINES IA 50313

Appeal Number: 04A-UI-05540-DWT
OC 04/25/04 R 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Temporarily Unemployed

STATEMENT OF THE CASE:

Scott R. Stone (claimant) appealed a representative's May 5, 2004 decision (reference 02) that concluded he would have to start making two in-person job contacts each week because he was not on a temporary layoff from C. L. Carroll Company, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 7, 2004. The claimant participated in the hearing. Paula Rissman, the corporate secretary, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant on a temporary layoff?

FINDINGS OF FACT:

The claimant started working for the employer in August 2003. The claimant's supervisor laid him off from work during the week of April 18, 2004. The claimant established a claim for benefits during the week of April 25, 2004.

When the employer responded to the notice of claim, Rissman understood the employer did not plan to call the claimant back to work. Later, she learned the claimant's supervisor intended to call the claimant back to work when he had a job.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not required to look for work when he is unemployed if he is temporarily unemployed. Iowa Code §96.4-3. The law defines a claimant to be temporarily unemployed when the claimant is unemployed due to a lack of work from his regular full-time job and will again work full-time because the employer intends to call the claimant back to work when there is work. Iowa Code §96.19(38)(c).

The employer acknowledged that the employer mistakenly reported the claimant would not be called back to work when, in fact, the claimant's supervisor told the claimant he would be called back to work and wanted to call the claimant back to work. The facts establish the claimant is temporarily unemployed and the employer intends to call him back to work when there is available work. As a result, the claimant is not required to look for work.

DECISION:

The representative's May 5, 2004 decision (reference 02) is reversed. The employer placed the claimant on a temporary layoff. Therefore, the claimant is not required to look for work.

dlw/d