

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LANCE UBBEN
Claimant

APPEAL NO. 13A-UI-08509-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROYAL FORK BUFFET
Employer

OC: 06/16/13
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated July 15, 2013, reference 01, which held claimant eligible to receive unemployment insurance benefits finding that the claimant was separated from employment under non disqualifying conditions. After due notice was provided, a telephone hearing was held on August 27, 2013. Although duly notified, the claimant did not participate. The employer participated by Mr. Chad Edwards, Assistant Manager, and by Mr. Dana Lance, Manager.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Mr. Ubben was employed by Royal Fork Buffet for approximately one year before being laid off due to lack of work on June 19, 2013. Mr. Ubben was employed as a full-time hot food cook and was being paid by the hour. His immediate supervisors were Chad Edwards and Dana Lance.

Although the employer agrees that the claimant's job separation was due to a lack of work, it is the employer's belief that Mr. Ubben has been performing services for the Mission Tree Trimming Company while receiving unemployment insurance benefits and that Mr. Ubben is not reporting the pay that he is receiving from his new employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was laid off due to 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.

The evidence in the record establishes the claimant was laid off because the employer did not have sufficient working hours for Mr. Ubben as a full-time employee. The administrative law judge concludes therefore the situation was attributable to a lack of work by the employer and benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law. It is the employer's intention to bring the matter of the claimant's working while drawing unemployment insurance benefits to the attention of Iowa Workforce Development.

DECISION:

The representative's decision dated July 15, 2013, reference 01, is affirmed as modified. The portion of the determination finding the claimant was separated from employment under non disqualifying conditions is affirmed. The portion finding the claimant was dismissed is modified to find the claimant was laid off due to a lack of work. Benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs