

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENNIS J WEBBER
Claimant

APPEAL NO. 08A-UI-04587-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

BERGSTROM CONSTRUCTION INC
Employer

**OC: 04/06/08 R: 02
Claimant: Appellant (2)**

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Dennis Webber (claimant) appealed a representative's May 5, 2008 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Bergstrom Construction (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for May 27, 2008, in Des Moines, Iowa. The claimant participated personally. The employer participated by Tom Gorgas, President.

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 having considered all of the evidence in the record, finds that: The claimant was hired in February 2008, as a full-time finish carpenter. The employer hired the claimant to work on a particular job. The claimant had previously worked for the employer. On or about April 7, 2008, the employer had no further work for the claimant to perform as a finish carpenter on that job. The employer paid the claimant for his work and said it would call the claimant if it had any other work.

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 on April 7, 2008. 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.

DECISION:

The representative's May 5, 2008 decision (reference 01) is reversed. The claimant was not separated from employment for any disqualifying reason. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw