

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NORMAN L HOMB
Claimant

APPEAL NO. 09A-UI-04474-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VOLT TECHNICAL RESOURCES LLC
Employer

OC: 07/20/08
Claimant: Appellant (2)

Section 96.4-3 – Employed at the Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated March 16, 2009, reference 03, that denied benefits as of February 1, 2009 finding the claimant was still employed at the same hours and wages as in the original agreement of hire. After due notice a telephone conference hearing was scheduled for and held on April 16, 2009. The claimant participated personally. Although notified, the employer did not participate.

ISSUE:

The issue is whether the claimant is eligible for unemployment insurance benefits as of February 1, 2009.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered the evidence in the record finds the claimant began employment with Volt Technical Resources in September 2003 and continues to be employed at the time of hearing. The claimant works as a field technician and is paid by the hour.

The claimant was laid off for a one-week period between January 30, 2009 and February 9, 2009 due to the temporary closing of the facility where he was assigned to work by Volt Technical Resources, Inc. Upon resumption of work after the temporary layoff, Mr. Homb continued in his employment and continues to be employed at the time of hearing.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is eligible for unemployment insurance benefits for the week ending February 7, 2009.

The evidence in the record establishes that the claimant was temporarily laid off due to the closing of the facility where he was assigned to work by his employer, Volt Technical Resources. The claimant did not receive any pay or other remuneration from the employer for

this period of time during the temporary layoff. Upon the one-week layoff conclusion, the claimant returned to available employment with this company the following work day, February 9, 2009.

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.

871 IAC 24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

For the reasons stated herein, the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits for the period in question as he was temporarily laid off.

DECISION:

The representative's decision dated March 16, 2009, reference 03, is reversed. The claimant is eligible to receive unemployment insurance benefits for the week ending February 7, 2009 as he was temporarily laid off work. Benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs