

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL J KLEES
Claimant

IOWA DISTRIBUTION SERVICES CORP
Employer

APPEAL NO: 11A-UI-10203-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/26/11
Claimant: Respondent (1-R)**

871 IAC 24.1(113)a – Layoff

STATEMENT OF THE CASE:

The employer appealed a department decision dated July 28, 2011, reference 04, that held the claimant was dismissed for no misconduct on February 27, 2011, and benefits are allowed. A telephone hearing was held on August 29, 2011. The claimant participated. Ted Elson-Canfield, Manager, and Dwight Lammers, President, participated for the employer.

ISSUE:

The issue is whether the claimant was temporarily laid off from work.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began working for the employer as a part-time, casual driver on September 20, 2010. He continued working until February 27, 2011 when his manager told him there was no further work available. The employer has not recalled claimant to work since his layoff.

The department record shows claimant filed an unemployment claim effective June 27, 2010. He claimed for and received a benefit of \$374.00 for the week ending January 1, 2011. This is the only benefit claimant received during the period he performed work for the employer. The employer reported it paid claimant wages of \$10,117.00 during the fourth quarter of 2010.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes the claimant was laid off for lack of work on February 27, 2011 from his part-time, casual work for the employer that is an employment separation for no disqualifiable reason.

The administrative law judge further concludes the issue whether claimant should have received benefits of \$374.00 for the week ending January 1, 2011 is remanded to Investigations and Recovery for review.

DECISION:

The department decision dated July 28, 2011, reference 04, is affirmed. The claimant was laid-off for lack of work on February 27, 2011. Benefits are allowed, provided claimant is otherwise eligible. The work and wage for the week ending January 1, 2011 issue is remanded.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css