

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGE A VANDOLAH
Claimant

APPEAL NO. 08A-UI-02947-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEXTER FOUNDRY INC
Employer

**OC: 02/24/08 R: 03
Claimant: Respondent (5)R**

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

STATEMENT OF THE CASE:

Dexter Foundry (employer) appealed a representative's March 24, 2008 decision (reference 01) that concluded George Vandolah (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 9, 2008. The claimant was represented by Richard Schlegel, Attorney at Law, and participated personally. The employer participated by Kathy Baker, Human Resources Administrative Assistant. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was laid off for lack of work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 27, 1997, as a full-time mill room grinder. The claimant suffered a work-related injury on or about May 1, 2007. The last day he worked was May 9, 2007. On February 18, 2008, the employer sent the claimant a certified letter informing him that he was being laid off from work due to that work-related injury. The employer has not called the claimant back to 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 § 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 February 18, 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 for that period.

The issue of the claimant's ability to work is remanded for determination.

DECISION:

The representative's March 24, 2008 decision (reference 01) is modified with no effect. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible. The issue of the claimant's ability to work is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs