

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT J MCMULLEN
Claimant

APPEAL NO. 11A-UI-10798-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JDFCEC (55-T) DUBUQUE WORKS
Employer

OC: 04/24/11
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

JDFCEC (employer) appealed a representative's August 12, 2011, decision (reference 01) that concluded Robert McMullen (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 September 9, 2011. The claimant did not participate in the hearing. The employer participated by Sandra Lynn, manager of labor relations. The employer offered and Exhibit One was received into evidence.

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 on February 14, 2011, as a full-time miscellaneous processor. The employer had a scheduled shutdown for the two-week period ending August 6, 2011. Employees are required to take vacation during that time period if they have vacation time available. If an employee does not have vacation time available, the employee is placed on a short-term layoff. The claimant did not have vacation time to use during the period ending August 6, 2011. Originally, the employer planned to have the claimant work both weeks but found that it did not have enough work for the claimant the week ending July 30, 2011. The employer did not give the claimant the required 12 days' notice to be laid off. For the week ending July 30, 2011, the employer placed the claimant on a paid layoff. The employer had work for the claimant for the week ending August 6, 2011, and the claimant worked that week. The claimant reopened his claim for unemployment insurance benefits with an effective date of July 31, 2011, but did not file for any benefits.

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 placed the claimant on a paid one-week layoff ending July 30, 2011. The claimant worked the week ending August 6, 2011. The claimant is not eligible to receive unemployment insurance benefits for that period, because he was paid wages.

DECISION:

The representative's August 12, 2011 decision (reference 01) is reversed. The claimant is not eligible to receive unemployment insurance benefits for that period, because he was paid wages.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw