

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KEVIN R FLEMING**  
Claimant

**APPEAL NO. 14A-UI-01974-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALLIED CONSTRUCTION SERVICES**  
Employer

**OC: 01/12/14**  
**Claimant: Appellant (2)**

871 IAC 24.1(113) – Layoff

**STATEMENT OF THE CASE:**

Kevin Fleming filed a timely appeal from the February 11, 2014, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on March 13, 2014. Mr. Fleming participated. The employed waived its participating in the hearing.

**ISSUE:**

Whether Mr. Fleming separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Kevin Fleming was employed by Allied Construction Services as a full-time carpenter from September 2013 until January 10, 2014, when the employer laid him off as part of a seasonal layoff. Though the layoff followed another contractor's complaint about Mr. Fleming having his foot on a sheetrock dolly, Mr. Fleming's foreman had told Mr. Fleming that that incident was no big deal. The supervisor notified Mr. Fleming of the layoff at the same time she spoke to Mr. Fleming about the other contractor's complaint. The employer has not recalled Mr. Fleming to the employment.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Workforce Development rule 871 IAC 24.1(113)(a) provides as follows:

24.1(113) Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status 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.

[Emphasis added.] An employee who is employed on temporary basis for assignment to spot jobs or casual employment is deemed to have fulfilled the contract of hire upon completion of each job. If the employee separates from the employer upon completion of the contract of hire, the separation will not be deemed a voluntary quit and will instead be deemed to be for good cause attributable to the employer. See 871 IAC 24.26(19).

The evidence in the record indicates a separation based on a layoff that happened to coincide with a complaint about Mr. Fleming. The employer has not presented any evidence to establish that the separation was based on a discharge. The employer specifically indicated to Mr. Fleming at the time of the separation that the employer was laying off workers. The layoff would not disqualify Mr. Fleming for unemployment insurance benefits. See Iowa Code section 96.5(2)(a) (regarding discharges for misconduct in connection with the employment) and 96.5(1) (regarding voluntary quits without good cause attributable to the employer). Mr. Fleming is eligible for unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to Mr. Fleming.

**DECISION:**

The Claims Deputy's February 11, 2014, reference 02, decision is reversed. The claimant was laid off. The claimant is eligible for unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs