

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SERGE A MARRABACK
Claimant

APPEAL NO. 12A-UI-02077-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES LLC
Employer

OC: 01/01/12
Claimant: Respondent (1)

871 IAC 24.1(113)a – Layoff
Section 96.5-1-j – Separation from Temporary Agency

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 16, 2011, reference 01, that concluded the claimant had completed a temporary work assignment and was eligible for unemployment insurance benefits. A telephone hearing was held on March 19, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Lisa Harroff participated in the hearing on behalf of the employer with a witness, Dennis Panosh. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant laid off due to lack of work or did he voluntarily quit his job?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant was assigned to work as a packer at Rock Tenn, a company that does packaging for Proctor & Gambles. He worked part time from July 6, 2011, to December 21, 2011. When the claimant was hired, he was given a statement to read and sign that he would be considered to have voluntarily quit employment if he did not contact the employer within one business day after the completion of a job assignment and request a new assignment.

On December 21, 2011, a recruiter with the employer told the claimant that the employer did not have any further work for him and would call him if he was needed to work again. The claimant did not receive any calls after that to return to work so he filed for unemployment insurance benefits effective January 1, 2012. He did not contact the employer afterward about additional work because he was told that he would be called if the employer needed him again.

REASONING AND CONCLUSIONS OF LAW:

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.

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The claimant did not voluntarily quit his employment and was not discharged. Instead, he was laid off when he was told that the employer did not have work for him and would call him when the employer needed him to work again.

Iowa Code § 96.5-1-j provides that persons employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The claimant is not subject to disqualification under Iowa Code § 96.5-1-j because the statement the claimant signed was not in compliance with Iowa law that states that an employee of a temporary agency must contact the employer within three days. The employer's policy has a one-day requirement.

It is noted that claimant received department approved training effective February 11, 2012, and the employer's account should not be charged for any benefits while the claimant is in approved training.

DECISION:

The unemployment insurance decision dated February 16, 2011, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css