

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FRANCISCO NAVARRETE**  
Claimant

**APPEAL NO. 08A-UI-00318-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DORMARK CONSTRUCTION CO**  
Employer

**OC: 12-09-07 R: 02  
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving – Layoff  
Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 2, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 28, 2008. The claimant participated in the hearing with Interpreter Oliver Koch. Ed Schlueter, Superintendent, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant was laid off.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time laborer for Dormark Construction from September 7, 2004 to December 9, 2007. The claimant was experiencing a family issue in Guatemala in September 2007, and the employer was in a slow work period, so he was allowed to go to Guatemala to help his family. He returned at the beginning of December 2007 and contacted the employer, but the employer was in a layoff at that time and the claimant was laid off the week ending December 9, 2007, and filed for unemployment insurance benefits. He has been working as needed since January 10, 2008.

**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.

While the employer experienced a work slowdown and the claimant was allowed to return to his native Guatemala in September 2007, he returned in December 2007 and was told there was no work available at that time; and, consequently, he filed a claim for unemployment insurance benefits. The claimant is able and available for work, as evidenced by the fact the claimant has performed work for the employer when it is available since his return. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

**DECISION:**

The January 2, 2008, reference 01, decision is reversed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw