

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDY REYNOLDS
Claimant

APPEAL NO: 15A-UI-12672-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCANINCH CORP
Employer

OC: 01/04/15
Claimant: Respondent (1)

Section 96 5-1 – Voluntary Leaving – Layoff
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 9, 2015, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 7, 2015. The claimant participated in the hearing. Dave Stitz, Vice-President of Finance, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

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 equipment operator for McAninch Corporation from March 31, 2015 to October 30, 2015. He is a seasonal employee and he was laid off due to a lack of work for the employer's standard winter layoff. At the time of the layoff the claimant told his supervisor he was going to be retiring. He was not required to submit formal paperwork to the employer but did submit his resignation paperwork to the international union in Washington, D.C. The claimant testified he does not know if he is going to retire but sent the paperwork to the international union to see how much money he would receive if he retired this year. The claimant stated he has made the same inquiry the previous two years but has decided not to retire. He is waiting to see how much money the job next season will pay and how far away it will be from his home.

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.

The claimant is out of work at this time due to a seasonal layoff. Consequently, he is eligible for benefits. While the claimant's testimony was not particularly credible, he may retire and not be available for recall in the spring but has not formally done so yet. If he does retire he must report his retirement money to the Department immediately. The separation was attributable to a lack of work by the employer. Therefore, benefits must be allowed at this time.

DECISION:

The November 9, 2015, reference 01, decision is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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