

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWN M ROCKHOLD
Claimant

APPEAL NO. 11A-UI-06574-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VANGENT INC
Employer

OC: 04/10/11
Claimant: Appellant (1)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 10, 2011, reference 01, which denied benefits as of April 10, 2011 upon a finding that the claimant was not able and available for work because he was not willing to work the hours and times which work in his occupation is done. After due notice, a telephone hearing was held on June 15, 2011. Claimant participated on his own behalf. Although duly notified, the employer did not participate.

ISSUE:

The issue is whether the claimant meets the availability requirements of the law.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Shawn Rockhold began employment with Vangent, Inc. on November 1, 2009 and continues to be employed at the time of hearing. Mr. Rockhold holds the position of full-time customer service representative and is paid by the hour. His immediate supervisor is Phil Healey.

Mr. Rockhold opened a claim for unemployment insurance benefits with an effective date of April 10, 2011 after he volunteered to be laid off work on April 10, 2011. The claimant would not have been selected to be laid off; however, Mr. Rockhold volunteered to be laid off.

Although the claimant had chosen to voluntarily absent himself from available employment, he nevertheless filed a claim for unemployment insurance benefits claiming that he was unemployed through no fault of his own.

REASONING AND CONCLUSIONS OF LAW:

The question for the administrative law judge is whether the evidence in the record establishes the claimant is able and available for work as required by the Employment Security Law. It does not.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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 evidence in the record establishes that the claimant was not willing to work the days and hours usually required in his occupation. The claimant chose to volunteer to be laid off effective April 10, 2011 and also filed a claim for unemployment insurance benefits for that week.

The evidence in the record clearly establishes the claimant was not unemployed through no fault of his own but the evidence establishes the claimant had chosen to make himself unavailable for work during the normal hours and days that work is available to him at Vangent, Inc. Unemployment insurance benefits are denied.

DECISION:

The representative's decision dated May 10, 2011, reference 01, is affirmed. The claimant is not able and available for work and is disqualified from receiving benefits effective April 10, 2011 and thereafter until he establishes his eligibility for benefits.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs