

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEONARD W MORGAN

Claimant

APPEAL NO. 08A-UI-04555-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEIGHBORHOOD PATROL INC

Employer

**OC: 04/06/08 R: 02
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 7, 2008, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 28, 2008. Although notified, the claimant did not participate. The employer participated by David Lee, Operations Manager.

ISSUE:

The issue in this matter is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant was temporarily laid off work on April 3, 2008 due to the claimant's removal from a client assignment by NPI Security. The employer did not choose to discharge Mr. Morgan for violating a rule at the client location but instead attempted to find other work for him. Subsequently the claimant was assigned to a different client employer by NPI Security.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant was on a temporary short-term layoff by NPI Security and has met availability requirements. The employer had the choice of discharging Mr. Morgan for violation of a client rule but chose not to do so. The employer instead, attempted to find new assignments for Mr. Morgan during this period. Subsequently the employer was successful in finding another assignment for the claimant.

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.

For the reasons stated herein the administrative law judge concludes that the claimant was on temporary layoff during the period in question and is eligible to receive unemployment insurance benefits providing that he meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated May 7, 2008, reference 01, is affirmed. Claimant was on a temporary layoff status and available for work. Unemployment insurance benefits are allowed, providing the claimant meets other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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