

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEDIAH D RYUN**  
Claimant

**APPEAL NO: 17A-UI-08999-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SMITH FERTILIZER AND GRAIN COMPANY**  
Employer

**OC: 07/23/17**  
**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 August 21, 2017, reference 03, 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 September 25, 2017. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Kim Gross, Human Resources Manager and Kyle Smith, Albia Location Manager, 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 temporary full-time outside laborer for Smith Fertilizer and Grain Company from October 28, 2016 to April 4, 2017. It expected the job to be over by Christmas 2016. The claimant severely injured one of his fingers and was on worker's compensation from December 7, 2016 until April 4, 2017. The employer did not have work available for the claimant as an outside laborer when he was released to return to work. The employer had told the claimant that if he obtained a commercial driver's license (CDL) while he was off work on worker's compensation it could hire him as a full-time feed truck delivery driver but the claimant did not get his CDL.

**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, regardless of the source of the individual's wage credits:

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.

Whether the employer ran out of outside labor work for the claimant in December 2016 or April 2017, it would still be a layoff due to a lack of work by the employer. The worker's compensation has no bearing on that fact. While the employer was willing to offer the claimant additional, full-time permanent work as a feed truck delivery driver if he secured a CDL, the claimant is not required to do so to be eligible for unemployment.

The administrative law judge does recognize the employer tried to work with the claimant and does not believe it should be required to pay unemployment insurance benefits under these circumstances. However, the separation was attributable to a lack of work by the employer. Therefore, benefits must be allowed.

**DECISION:**

The August 21, 2017, reference 03, decision is affirmed. 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/scn