

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT L JACKSON**  
Claimant

**APPEAL NO. 09A-UI-07245-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR GUYS LLC**  
Employer

**Original Claim: 04/05/09  
Claimant: Respondent (1)**

871 IAC 24.1(113)a - Layoff

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated May 4, 2009, reference 01, that concluded the claimant was laid off due to lack of work. A telephone hearing was held on June 4, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. John Herndon participated in the hearing on behalf of the employer with a witness, Matt Ricksgers.

**ISSUE:**

Was the claimant laid off due to lack of work?

**FINDINGS OF FACT:**

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer in Iowa City doing flood cleanup on the University of Iowa campus from July 16, 2008, to August 1, 2008. He was informed and understood that under the employer's work rules, he was required to report to the jobsite daily and would be considered to have quit after three consecutive days of not reporting to work.

The claimant continued to report to the jobsite in Iowa City for several days after August 1, but was not chosen to work. He was commuting from Cedar Rapids and stopped reporting when it became clear that he would not be working again.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. On the other hand, someone who is laid off due to lack of available work is eligible for benefits. 871 IAC 24.1(113)a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. The claimant testified very credibly that after his last day

of work, he continued to report to work daily for several days but that there was no work for him. He detailed convincingly the process used for selecting workers each day. The claimant denied walking off the job on August 1, 2008, and I believe his testimony. The preponderance of the evidence shows the claimant was laid off due to lack of work, did not quit, and was not discharged for work-connected misconduct.

**DECISION:**

The unemployment insurance decision dated May 4, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw