

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS W RAKE
Claimant

APPEAL NO. 07A-UI-04208-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUNDELL CONSTR CO INC
Employer

**OC: 12/10/06 R: 01
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 20, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 10, 2007. Claimant participated. Employer participated by Kevin Dreher, General Manager and Lisa Todd, Bookkeeper. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 23, 2007. Claimant was on seasonal layoff after that date. Claimant was given a recall to work notice March 30, 2007. Claimant was told to report back for his regular duties effective April 2, 2007. Claimant had already accepted new employment and was paid for one day of work April 2, 2007 at the new job.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because of a seasonal layoff. Claimant was on layoff when he accepted new employment. The separation occurred when the layoff started not when claimant took other employment. Claimant started the new job on the same day he was recalled to work by the employer. This separation is effective the date of the seasonal layoff and not when claimant accepted new employment. This is a separation for cause attributable to employer because of layoff. Benefits allowed.

Iowa Code section 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.

DECISION:

The decision of the representative dated April 20, 2007, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css