

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THOMAS F ENSMINGER**  
Claimant

**APPEAL NO. 10A-UI-02337-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LOVING LAWN WORKS**  
Employer

**Original Claim: 01/03/10  
Claimant: Respondent (5)**

871 IAC 24.1(113)a – Lay-off/Seasonal Work

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated February 5, 2010, reference 01, that held it failed to establish misconduct in the claimant's discharge on October 9, 2009, and that allowed benefits. A telephone hearing was held on March 16, 2010. The claimant participated. Jeremy Loving, Owner, and Joseph Burgmeier, an employee, participated for the employer.

**ISSUE:**

Whether the claimant was laid off from seasonal work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses having considered the evidence in the record, finds: The claimant began working for the employer as contract laborer in May 2006 and was paid non-employee compensation. The claimant came back to the employer in May 2007 as a student intern to work a seasonal job until sometime in August, and he worked on similar basis the following year, 2008, while a college student.

The claimant started his seasonal job in May 2009. In August, the claimant informed the employer he was not returning to college. The employer offered to extend the period of employment, so long as work was available. When the work ran out on October 9, the employer let the claimant go.

**REASONING AND CONCLUSIONS OF LAW:**

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 administrative law judge concludes the claimant's separation from employment on October 9, 2009 was a layoff from seasonal work.

The employer did not discharge the claimant, nor did he quit his job. The claimant had worked a pattern of summer, seasonal employment from 2007 through 2009. After working the summer job, the claimant would go back to school. When the claimant became available for continuing employment in August 2009, the employer offered him further work until it ran out on October 9, 2009. The separation from employment is a layoff for lack of work that does not disqualify the claimant.

**DECISION:**

The department decision dated February 5, 2010, reference 01, is modified. The claimant was laid off for lack of work on October 9, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw