

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALARDIN, JENNIFER, L
Claimant

APPEAL NO. 10A-UI-15219-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 09/26/10
Claimant: Appellant (2)**

871 IAC 24.1(113) – Layoff

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 2, 2010, reference 06, decision that denied benefits. After due notice was issued, a hearing was held on December 16, 2010. Claimant participated personally and was represented by Attorney Lisa Jones. Chad Baker, Workers Compensation Administrator, represented the employer and presented testimony through Scarlett Linn.

ISSUE:

Whether the claimant separated from the employment for a reason that would disqualify her front employment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. The claimant performed work in one, full-time, temp-to-hire position at River Bend Industries. Claimant started the assignment in August 2010 and last performed work at the assignment on the morning of September 27, 2010. The claimant's boyfriend also performed work for River Bend Industries, but was involuntarily separated from that work. River Bend Industries did not wish to have further contact with the claimant's boyfriend. On September 28, 2010, the staffing agency notified the claimant that, at the request of River Bend Industries, the employer was placing the claimant on a two-week layoff so that matters between River Bend Industries and the claimant's boyfriend could calm down. The layoff was not based on anything the claimant had done. The staffing agency representative notified the claimant that she could expect to return to River Bend Industries after the layoff. The claimant continued in regular contact with the staffing agency. A week later, the staffing agency contacted the claimant to make a general inquiry about other types of work the claimant might be interested in. The claimant was interested in keeping her \$9.50 per hour wage. The claimant was willing to drive 45 minutes to the Iowa City/Coralville area for assignments. The employer did not offer any specific assignments.

The claimant continued to initiate regular contact with the staffing agency. October 8, the claimant contacted the staffing agency and was told that River Bend Industries had decided to extend the layoff so that it would last a month. The claimant continued to expect that she would be returned to the assignment at the end of the layoff period. The staffing agency had not indicated otherwise.

On October 22, the claimant contacted the staffing agency. At that point, the claimant learned that River Bend Industries had been in contact with the staffing agency earlier in the week and had decided not to return the claimant to the assignment. The claimant inquired about additional possible assignments, but the staffing agency did not have any for her at that time. The claimant continued to make regular contact with the staffing agency and did not learn until November 1, 2010 that the staffing agency deemed her employment terminated.

REASONING AND CONCLUSIONS OF LAW:

Iowa Workforce Development rule 871 IAC 24.1(113) provides as follows:

24.1(113) Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status 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.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

- a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The weight of the evidence in the record establishes that the claimant was laid off effective September 28, 2010. The layoff would not disqualify the claimant for unemployment insurance benefits. The claimant is eligible for unemployment insurance benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The Agency representative's November 2, 2010, reference 06, decision is reversed. The claimant was laid off effective September 28, 2010. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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