

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KURT W JONES

Claimant

APPEAL NO. 12A-UI-12188-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BIO BEEF FEEDLOT MERRILL LLC

Employer

OC: 08/12/12

Claimant: Respondent (1-R)

Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Code § 96.5(1) – Voluntary Leaving – Layoff Due to Lack of Work

Iowa Admin. Code r. 871-24.1(113) – Definitions - Separations

STATEMENT OF THE CASE:

The employer filed an appeal from the October 1, 2012 (reference 04) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on November 5, 2012. Claimant did not respond to the hearing notice instruction and did not participate. Employer participated through managing partner Roger Ruhland.

ISSUES:

Is the claimant able to and available for work?

Was the claimant temporarily laid off due to a lack of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a feedlot laborer and was separated from employment on October 29, 2012. Work was not available because the employer did not have full-time work available for the three weeks ending September 1, 2012. The claimant has since been permanently separated from employment. That separation has not yet been determined at the claims level.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was temporarily laid off due to a lack of work for the three weeks ending September 1, 2012.

Iowa Code § 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.

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.

Iowa Admin. Code r. 871-24.1 provides:

Definitions. Unless the context otherwise requires, the terms used in these rules shall have the following meaning. All terms which are defined in Iowa Code chapter 96 shall be construed as they are defined in Iowa Code chapter 96.

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.

Regular, full-time work was not available to claimant for the three weeks ending September 1, 2012. Therefore, the temporary separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The October 1, 2012 (reference 04) decision is affirmed. The claimant was temporarily laid off due to a lack of work for the three weeks ending September 1, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

REMAND:

The permanent separation issue delineated in the findings of fact is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw