

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY J CHASE
Claimant

APPEAL NO. 09A-UI-05920-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAWKEYE MOVING & STORAGE INC
Employer

OC: 03/08/09
Claimant: Appellant (2)

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Timothy Chase (claimant) appealed a representative's April 8, 2009 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had no transportation to work with Hawkeye Moving & Storage (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for April 29, 2009, in Cedar Rapids, Iowa. The claimant participated personally. The employer participated by Tim Cook, Operations Manager.

ISSUE:

The issue is whether the claimant was separated from work for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 14, 2008, as a full-time laborer. The claimant had some transportation issues that were resolved as of March 1, 2009. The employer did not schedule the claimant for work even though the claimant was available because work was slow. The claimant filed for unemployment insurance benefits with an effective date of March 8, 2009.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

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.

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 employer laid the claimant off for lack of work on March 1, 2009. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant is eligible to receive unemployment insurance benefits.

The next issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes he is.

871 IAC 24.23(4) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7).

The claimant had transportation issues prior to his filing for unemployment insurance benefits. When a claimant has no means of transportation to employment, the claimant is deemed to not be available for work. The claimant is not disqualified from receiving unemployment insurance benefits. He had transportation to work as of March 1, 2009.

DECISION:

The representative's April 8, 2009 decision (reference 01) is reversed. The claimant's separation was attributable to a lack of work by the employer. The claimant is eligible to receive unemployment insurance benefits. The claimant is not disqualified from receiving unemployment insurance benefits because he is able and available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs