

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYLER L OMMEN
Claimant

APPEAL NO: 11A-UI-05008-S

SHELDON GRAIN LTD
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/28/10
Claimant: Appellant (2)**

871 IAC 24.1(113)a – Seasonal Lay-off
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated April 8, 2011, reference 01, that held he voluntarily quit employment without good cause attributable to the employer on October 22, 2010, and benefits are denied. A hearing was held in Spencer, Iowa on May 23, 2011. The claimant participated. Chuck Houtsma, Owner, participated for the employer. Claimant Exhibit A and Employer Exhibit One were received as evidence.

ISSUES:

The issue is whether the claimant was seasonally laid-off from work.

The issue is whether claimant is able and available for work

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began working a seasonal job for the employer in May 2010, and after a brief employment interruption, worked 14-weeks from August 1, 2010 to October 22. The employer told claimant two weeks prior to his last day that his seasonal work was coming to end. Claimant finished his job on October 22, and the employer had no further work to offer him. Claimant graduated from college on July 30, and he did not attend or enroll in school, thereafter.

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 experienced a seasonal layoff from employment effective October 22, 2010 that is an employment separation for no disqualifiable reason.

The claimant was laid-off from his seasonal job on October 22, 2010, and he did not leave employment to go to school. There is no evidence the employer attempted to re-call claimant to work after his lay-off.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes the claimant is able and available for work. The claimant completed his schooling on July 30 before he was laid-off, and did not enroll in any further schooling.

DECISION:

The department decision dated April 8, 2011, reference 01, is reversed. The claimant was laid-off for lack of work on October 22, 2010. He is able and available for work. Claimant is entitled to benefits, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs