

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER C BARBERO
Claimant

APPEAL NO. 11A-UI-07416-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

VAN ERT GLASS
Employer

**OC: 05/01/11
Claimant: Respondent (1)**

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

Van Ert Glass (employer) appealed a representative's May 31, 2011 decision (reference 01) that concluded Roger Barbero (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 29, 2011. The claimant did not provide a telephone number for the hearing and, therefore, did not participate personally. The claimant provided a written document explaining his position. That document was marked as Exhibit A and was received into evidence. The employer participated by Chris Nelson, Owner.

ISSUE:

The issue is whether the claimant was separated from employment 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 July 21, 2006, as a part-time general laborer. The claimant was laid off from work with the employer on March 15, 2010, when the business was sold to Papa Pepperino's. The claimant worked for Papa Pepperino's until May 1, 2011.

The decision indicated that the claimant was laid off on March 15, **2011**. The correct date is March 15, **2010**.

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 § 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 15, 2010. When an employer suspends a claimant from work status, 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 so long as he is otherwise qualified.

DECISION:

The representative's May 31, 2011 decision (reference 01) is affirmed. The claimant's separation was attributable to a lack of work by the employer. The claimant is eligible to receive unemployment insurance benefits so long as he is otherwise qualified.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs