

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMUEL BOYER
Claimant

APPEAL NO: 09A-UI-04721-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

METROGROUP MARKETING SERVICES
Employer

**Original Claim: 12-21-08
Claimant: Appellant (4)**

Section 96 5-1 – Voluntary Leaving – Layoff
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant/appellant filed a timely appeal from the March 20, 2009, reference 06, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 21, 2009. The claimant participated in the hearing. Terri Bocking, Human Resources Generalist, and Darrell Rogers, Shift Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant was laid off.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time machine operator for Metrogroup Marketing Services from January 15, 2008 to February 23, 2009. He was laid off due to a lack of work February 5, 2009 and recalled February 23, 2009, at which time he told the employer he was not going to return because he had taken a job working for his son. The claimant turned in his badge and tools and left. He has been working full-time for his son since February 23, 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 from February 5, 2009 to February 23, 2009.

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.

The claimant was laid off due to a lack of work February 5, 2009 and recalled to work February 23, 2009. He did not return on that date because he accepted full-time employment with his son effective February 23, 2009. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed for the week ending February 14, 2009 through the week ending February 21, 2009.

DECISION:

The March 20, 2009, reference 06, decision is modified in favor of the claimant/appellant. The claimant was laid off due to a lack of work from February 5 to February 23, 2009. Benefits are allowed for the week ending February 14, 2009 through the week ending February 21, 2009, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw