

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KEITH D CONRAD
1040 3RD AVE SE APT 17
CEDAR RAPIDS IA 52403

ACCESS DIRECT TELEMARKETING INC
c/o JOHNSON & ASSOCIATES
PO BOX 6007
OMAHA NE 68106-0007

Appeal Number: 04A-UI-08770-S2T
OC: 07/04/04 R: 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.1(113)a – Separations From Employment

STATEMENT OF THE CASE:

Keith Conrad (claimant) appealed a representative's August 6, 2004 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he was discharged from work with Access Direct Telemarketing (employer) for violation of a known company rule. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 7, 2004. The claimant participated personally. The employer representative, Peg Heenan, Attorney at Law, informed the administrative law judge that the employer did not wish to participate in the hearing.

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 in August 2002, as a full-time telemarketer. The employer laid the claimant off for lack of work on July 6, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was laid off for lack of work. For the following reasons, the administrative law judge concludes he was.

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 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 July 6, 2004. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant is eligible to receive unemployment insurance benefits from July 6, 2004.

DECISION:

The representative's August 6, 2004 decision (reference 01) is reversed. The claimant is eligible to receive unemployment insurance benefits from July 6, 2004, because he was laid off for lack of work.

bas/kjf