

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD M MCCLURE
Claimant

APPEAL NO. 07A-UI-11023-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

R & W INC
Employer

**OC: 10/28/07 R: 03
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

R & W (employer) appealed a representative's November 28, 2007 decision (reference 03) that concluded Donald McClure (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 December 13, 2007. The claimant participated personally. The employer participated by Dan Reece, President, and Barb Albert, Office Manager.

ISSUE:

The issue is whether the claimant was laid off for lack of work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired in August 1988; and at the end of his employment, he was working as a full-time parts worker. The employer laid the claimant off due to lack of work on July 28, 2007. After the layoff, the employer could not find an invoice the claimant should have written. The employer did not return the claimant to work due to the lack of invoice.

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 July 28, 2007. 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. The employer's discovery after the layoff does not affect the claimant's receipt of benefits.

DECISION:

The representative's November 28, 2007 decision (reference 03) is affirmed. The claimant is eligible to receive unemployment insurance benefits based on his layoff for lack of work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw