

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY LWHEELER
Claimant

APPEAL NO. 10A-UI-02828-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

**Original Claim: 02/22/09
Claimant: Respondent (5)**

871 IAC 24.1(113)a – Temporary Lay-off

STATEMENT OF THE CASE:

The employer appealed a department decision dated February 5, 2010, reference 06, that held the claimant was not discharged for misconduct on December 12, 2009, and that allowed benefits. A telephone hearing was held on April 6, 2010. The claimant participated. The employer did not participate.

ISSUE:

Whether the claimant was temporarily laid off from work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the claimant and having considered the evidence in the record, finds: The claimant began working for the temporary employment firm on July 18, 2006. The claimant worked a seasonal assignment at Twin City Concrete where he would be laid off in the winter and return to work in the spring. The claimant last worked at Twin City Concrete on December 17, and he did contact the employer, who had no other work to offer him at that time. Since the claimant lived a long distance from work, the employer permitted for the claimant to call in and check for work rather than report in person and sign up for work. The claimant is expecting a re-call to work at Twin City Concrete.

The employer was not available when called for the hearing.

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 was placed on a seasonal layoff from his work assignment at Twin City Concrete on December 17, 2009 with the expectation he will be re-called to work. The claimant checked with the employer about further assignments, and no other work was made available to him.

DECISION:

The department decision dated February 5, 2010, reference 06, is modified with no effect. The claimant was placed on seasonal layoff on December 17, 2009, which is a separation for no disqualifiable reason. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw