

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE F AYALA
Claimant

APPEAL NO: 07A-UI-00226-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAGEN INC
Employer

OC: 11/26/06 R: 12
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Jose Ayala (claimant) appealed a representative's December 28, 2006 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Fagen (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 25, 2007. The claimant participated personally through Susie Jacquez, Interpreter. The employer participated by Tabby Niemeyer, Personnel Assistant.

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 considered all of the evidence in the record, finds that: The claimant was hired on March 7, 2006, as a full-time concrete finisher. On November 22, 2006, the project manager told the claimant he was laid off from work. The project manager reported to the employer that the claimant had voluntarily quit work.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant was laid off for lack of work.

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 November 22, 2006. 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 after November 22, 2006.

DECISION:

The decision of the representative dated December 28, 2006 reference 01, is reversed. The claimant was laid off for lack of work and, therefore, eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css