

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GILBERTO GONZALEZ ZARATE**  
Claimant

**APPEAL NO. 11A-UI-03046-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ANNA ENTERPRISES**  
Employer

**OC: 01/16/11**  
**Claimant: Respondent (2)**

871 IAC 24.1(113)a – Short-Term Layoff

**STATEMENT OF THE CASE:**

The employer filed an appeal from a representative's decision dated March 2, 2011, reference 02, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 31, 2011. The employer participated by Catheren Druivenga, assistant manager. The claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Catheren Druivenga and Employer's Exhibits 1 through 2.

**ISSUE:**

Whether the claimant is on a short-term layoff.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment agency. The claimant began accepting assignments from the employer on May 14, 2010. The claimant was on a temporary assignment for the employer from August 3, 2010, to February 17, 2011. The claimant applied for unemployment insurance benefits with an original claim date of January 16, 2011.

**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.

871 IAC 24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

In this case, the representative ruled that the claimant was on a short-term layoff and was therefore eligible for unemployment insurance benefits beginning January 16, 2011. The evidence established that the claimant was working from August 3, 2010 to February 17, 2011. He was not on a short term layoff. He is not eligible for benefits effective January 16, 2011.

**DECISION:**

The representative's decision dated March 2, 2011, reference 02, is reversed. The claimant was not on a short-term layoff beginning January 16, 2011. He was working for the employer. Benefits are denied.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw