

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

OTHMANE ERRACHIDI
Claimant

APPEAL NO. 09A-UI-05414-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHENKER LOGISTICS INC
Employer

**Original Claim: 02/15/09
Claimant: Respondent (5)**

871 IAC 24.1(113) – Layoff

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 23, 2009, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on May 4, 2009. Claimant Othmane Errachidi participated. Nicki Brick, Human Resources Generalist, represented the employer. Exhibits One and Two were received into evidence.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Othmane Errachidi started his employment with Schenker Logistics in December 2005. Mr. Errachidi worked as a full-time fork lift operator until January 12, 2008. At that point, he switched to part-time status because he had become a full-time student. Thereafter, Mr. Errachidi generally worked on Saturday and Sunday, 6:00 a.m. to 2:00 p.m. In November and December 2008, Mr. Errachidi generally worked only one shift on the weekend. Mr. Errachidi asked his immediate supervisor for time off at the end of the semester and the supervisor approved the request. Mr. Errachidi traveled out of the country on December 22, 2008 and returned on January 21, 2009. When Mr. Errachidi returned, he found a message on his answering machine that the supervisor had left on January 13, 2009. The message said that employer had decided to no longer employ part-time fork lift operators and no longer needed Mr. Errachidi's services.

REASONING AND CONCLUSIONS OF LAW:

Iowa Workforce Development rule 871 IAC 24.1(113) provides as follows:

24.1(113) 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.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The weight of the evidence indicates that Mr. Errachidi's separation from the employment was in the form of a permanent lay-off that went into effect on January 13, 2009, at the time Mr. Errachidi was on a leave approved by his immediate supervisor. The layoff would not disqualify Mr. Errachidi for unemployment insurance benefits. Mr. Errachidi is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Errachidi.

DECISION:

The Agency representative's March 23, 2009, reference 01, decision is modified as follows. The claimant was laid off effective January 13, 2009. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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