

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID D THOMAS
Claimant

APPEAL NO: 11A-UI-04965-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ANNA ENTERPRISES
STAFFING SOLUTIONS**
Employer

**OC: 01/16/11
Claimant: Respondent (1)**

871 IAC 24.1(113)a – Layoff

STATEMENT OF THE CASE:

Anna Enterprises / Staffing Solutions (employer) appealed a representative's April 8, 2011 decision (reference 04) that concluded David D. Thomas (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 9, 2011. The claimant participated in the hearing. Kate Druivenga appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant's first and to date only assignment with the employer began on September 16, 2010. He worked full time as a general laborer at the employer's Adel, Iowa business client. His last day of work on the assignment was October 21, 2010. The assignment ended because the business client had no more work available for the claimant. Both the business client and the claimant informed the employer of the ending of the assignment on October 21. The claimant also inquired about the possibility of other work, but the employer had no other work available for the claimant at that time. He was advised to start seeking work elsewhere.

There has been a previous adjudication (11A-UI-01940-JTT) regarding an offer of work made by the employer to the claimant on November 1 which was deemed to be unsuitable; that decision has become final and is not subject to further review in this proceeding.

On November 4 the claimant advised the employer that on November 5 he was going to start some other employment he had found. However, on November 8 the claimant recontacted the

employer to indicate that the other employment had not worked out, and he was again seeking work with the employer. There is no evidence of any additional offers of work made by the employer to the claimant after November 1.

REASONING AND CONCLUSIONS OF LAW:

A separation is disqualifying if it is a voluntary quit without good cause attributable to the employer or if it is a discharge for work-connected misconduct.

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 separation between the claimant and the employer occurred on October 21, 2010 and was a layoff by the employer due to the lack of work for the claimant from the employer's business client; additionally, the employer had no work it could provide to the claimant. As there was not a disqualifying separation, benefits are allowed if the claimant is otherwise eligible. The subsequent events do not constitute another separation from employment. The claimant's attempt to enter into other employment after his layoff was not a "quit" of his employment with the employer. There was one attempt to recall the claimant with an offer of work, which was deemed unsuitable, but no subsequent active employment by the employer nor subsequent attempt by the employer to recall the claimant with another offer of work.

DECISION:

The representative's April 8, 2011 decision (reference 04) is affirmed. The claimant was laid off from the employer as of October 21, 2010 due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs