

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSS W MADDY
Claimant

APPEAL NO. 10A-UI-14379-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID-STATES MILLWRIGHT & BUILDERS
Employer

OC: 12/20/09
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

Mid-States Millwright & Builders (employer) appealed a representative's October 8, 2010 decision (reference 01) that concluded Ross Maddy (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 30, 2010. The claimant participated personally and through former co-worker, Mark Ehresman, and current employer, Chris Borst. The employer participated by Dale Erickson, Human Resources/Safety Director.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 April 12, 2010, as a full-time concrete crew foreman. On or about August 21, 2010, the claimant's supervisor told him that he was being laid off for lack of work. The claimant was instructed to wait for the employer's call. Effective September 4, 2010, the employer ended its concrete division and there was no work for the claimant.

REASONING AND CONCLUSIONS OF LAW:

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

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.

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 or about August 21, 2010. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant is eligible to receive unemployment insurance benefits after August 21, 2010.

DECISION:

The representative's October 8, 2010 decision (reference 01) is affirmed. The employer laid the claimant off due to lack of work. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css