

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERTO MORA**  
Claimant

**APPEAL NO: 08A-UI-08594-BT**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**MIDWEST CONSTRUCTION SERVICES INC**  
Employer

**OC: 08/31/08 R: 01  
Claimant: Appellant (4)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Roberto Mora (claimant) appealed an unemployment insurance decision dated September 23, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Midwest Construction Services Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 9, 2008. The claimant participated in the hearing. Ike Rocha interpreted on behalf of the claimant. The employer participated through Katie Colantonio, Human Resources Specialist. 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:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

**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 employed as a temporary general laborer from July 26, 2005 through August 29, 2008 when he was removed from his long-term assignment at Gethmann Construction. He was not discharged and is eligible for additional assignments with the employer. However, the employer did not provide the claimant with a separate notification document outlining his requirement to check back in for additional work at the end of an assignment.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. See Iowa Code §§ 96.5-1 and 96.5-2-a.

Iowa Code § 96.5-1-j 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, but the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The greater weight of the evidence indicates the claimant was not advised in writing that he was required to check back in for additional work at the completion of an assignment. An employer's notification document must be separate from any contract of employment and there is no evidence establishing the employer even has a notification policy. Because the employer has not complied with Iowa Code § 96.5(1)(j), the claimant's separation is considered to be a voluntary quit with good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The unemployment insurance decision dated September 23, 2008, reference 01, is modified in favor of the appellant. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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