

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE R BLUMER
Claimant

APPEAL NO. 10A-UI-09313-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

**Original Claim: 05/09/10
Claimant: Respondent (1)**

Section 96.5-1-j – Voluntary Leaving - Temporary Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated June 17, 2010, reference 02, which held the claimant eligible to receive unemployment insurance benefits. After due notice was issued, a telephone hearing was held on August 16, 2010. The claimant participated. The employer participated by Kathy Archer, assistant manager.

ISSUE:

At issue is whether the claimant was discharged under disqualifying conditions.

FINDINGS OF FACT:

Having considered all the evidence in the record, the administrative law judge finds: Nicole Blumer began performing services through Labor Ready Midwest in May of 1997. The claimant was most recently assigned to work as a receptionist at the Arrow Plumbing Company from September 29, 2009, until November 9, 2009, when the long-term assignment came to an end. Ms. Blumer notified Labor Ready Midwest on the same day, November 9, 2009, that the assignment ended. Ms. Blumer made herself available for additional assignments; however, the employer had no additional assignments available for the claimant that day or the next working day.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant was separated from work for disqualifying reasons. It does not.

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.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The evidence in the record establishes Ms. Blumer's employment through Labor Ready Midwest, Inc. came to an end on November 9, 2009, when the claimant was separated due to lack of work. The claimant had notified the temporary employment service that her temporary assignment had come to an end that day and the claimant made herself available for work; however, the employer had no additional assignments available for the claimant that day or the next working day. The claimant's separation from work was caused by the employer. The claimant had adequate contact with the employer about her availability as required by the statute. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated June 17, 2010, reference 02, is affirmed. The claimant was separated for no disqualifying reason. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw