

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DERRICK SHACK**  
Claimant

**APPEAL NO: 13A-UI-03215-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**  
Employer

**OC: 02/03/13**  
**Claimant: Respondent (1)**

Iowa Code Section 96.5(1) – Voluntary Leaving  
871 IAC 24.26(19 & 22) – Voluntary Leaving

**STATEMENT OF CASE:**

The employer filed a timely appeal from the March 6, 2013, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 16, 2013. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Heidi Whited, Operations Specialist, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time general construction clean-up laborer for Labor Ready Midwest last assigned to Hawkeye Material Handling on March 21, 2013. The claimant's last assignment ended due to a lack of work. His second to last assignment was also a one-day assignment working the concession stand at a University of Iowa football game November 23, 2012. Employees are required to go in to the employer and sign up daily for assignments. The claimant has not reported for a new assignment since March 21, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was not disqualifying.

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 24.26(19) and (22) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

The claimant was a spot laborer for the employer and last worked for the employer on a one-day assignment March 21, 2013. His last assignment prior to that was four months earlier. Because he is a casual laborer for the employer he is not considered to have voluntarily quit his job by failing to report to the employer's premises for a new assignment every day as the employer requires. Inasmuch as the claimant completed the contract of hire with the employer, benefits are allowed.

**DECISION:**

The March 6, 2013, reference 01, decision is affirmed. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css