

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANA M EMERSON**  
Claimant

**APPEAL NO. 15A-UI-14039-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**  
Employer

**OC: 11/29/15**  
**Claimant: Appellant (2/R)**

Section 96.5-1-j – Separation from Temporary Employer

**STATEMENT OF THE CASE:**

Dana Emerson (claimant) appealed a representative's December 17, 2015, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits due to her separation from work with Labor Ready Midwest (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 11, 2016. The claimant participated personally. The employer participated by Nicole Petersmith, Customer Service Representative. The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibit One was received into evidence.

**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 employer is a temporary employment service. The claimant performed services from September 14, 2015, through December 26, 2015. She signed a document on September 14, 2015, indicating she was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The claimant was offered a copy of the document which was separate from the contract for hire. The claimant completed an assignment on December 3, 2015. She had some issues receiving the employer's texts of job opportunities but sought reassignment from the employer each morning. On September 8, 2015, the claimant told the employer she was taking a first shift full-time job with another temporary agency. She said she wanted to work second shift, third shift, or weekends. She worked weekends for the employer through December 26, 2015, while working full-time at Omega Cabinetry through Sedona Staffing.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits after her separation from work.

Iowa Code § 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

The claimant left her position with the employer to work for another employer. When an employee quits work to take other employment, she is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment and has performed work for the other employer. She voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

The issue of whether the claimant is able and available for work while working full time is remanded for determination.

**DECISION:**

The representative's December 17, 2015, decision (reference 01) is reversed. Benefits are allowed, provided claimant is otherwise eligible, because the claimant left to take other employment. The employer will not be charged.

The issue of whether the claimant is able and available for work while working full time is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed  
bas/pjs