

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM D LINK
Claimant

APPEAL NO: 14A-UI-00914-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 07/14/13

Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

William D. Link (claimant) appealed a representative's January 21, 2014 decision (reference 03) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Labor Ready Midwest, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 17, 2014. The claimant participated in the hearing. The employer's representative received the hearing notice and responded by sending a statement to the Appeals Section indicating that the employer was not going to participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant worked two two-day assignments through the employer, both doing highway flagging work. He worked the first assignment on July 23, 2013; at the end of the day, he was told that he should return to the same assignment the next day, and he turned that information into the employer that evening when he reported to be paid for his work that day. He then again worked that assignment on July 24, 2013; at the end of that day, he was told the work was done, and he turned that information into the employer that evening when he reported to be paid for his work that day. His final assignment began on July 29, 2013. At the end of that day he was again told that he should return to the same assignment the next day, and he turned that information into the employer that evening when he reported to be paid for his work that day. He then again worked that assignment on July 30, 2013; at the end of that day, he was told the work was done, and he turned that information into the employer that evening when he reported to be paid for his work that day.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if he fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. There is no evidence that this temporary employment firm has this type of requirement to seek reassignment. The employer's work for the claimant was more in the nature of spot jobs which are deemed fulfilled with the work is done. 871 IAC 24.26(15). Further, the employer did report back to the employer at the end of the assignment, and there was no indication that there was any further work available to the claimant.

The claimant is not required by the statute to continue to seek further work this this particular employer in order to remain "able and available" for work for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's January 21, 2014 decision (reference 03) is reversed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs