

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYDE C RATLIFF

Claimant

APPEAL NO. 07A-UI-00795-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

**OC: 11/28/06 R: 02
Claimant: Respondent (2)**

Section 96.5-1- Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc. (employer) appealed a representative's January 8, 2007 decision (reference 02) that concluded Kyde C. Ratliff (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 7, 2007. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Dennis Holman, the branch staffing manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a temporary staffing firm. The claimant has performed various "long-term" jobs the employer has assigned to him since March 27, 2006. The most recent job the employer assigned the claimant to began on October 30, 2006. The job was a semi-skilled construction-type job.

On November 12, 2006, the employer's client ended the claimant's assignment because the claimant's girlfriend was at the jobsite and the claimant engaged in a verbal confrontation which the client did not find acceptable. The employer informed the claimant he was done at that job because the client had ended the assignment. The employer asked the claimant to contact the

employer the next day so the employer could assign the claimant to another job. The employer had more than one job where the claimant could have worked. The claimant did not return the next day and has not contacted the employer anytime after November 12, 2006.

The claimant established a claim for benefits during the week of November 26, 2006. The claimant filed claims for the weeks ending December 2, 2006, through January 27, 2007. He received his maximum weekly benefit amount of \$85.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. On November 12, 2006, the claimant's job assignment ended at the request of the client, but the employer told the claimant he would be assigned to another job the next day. When the claimant failed to report to the employer's office or contact the employer again, he voluntarily quit his employment. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa code § 96.6-2.

Based on the evidence presented during the hearing, the facts do not establish that the claimant quit his employment for reasons that qualify him to receive unemployment insurance benefits. Therefore, as of November 26, 2006, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending December 2, 2006, through January 27, 2007. The claimant has been overpaid \$765.00 in benefits he received for these weeks.

DECISION:

The representative's January 8, 2007 decision (reference 02) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 26, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured

work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending December 2, 2006, through January 27, 2007. The claimant has been overpaid and must repay a total of \$765.00 in benefits he received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css