

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL BEATYVILLA
Claimant

APPEAL NO: 12A-UI-02815-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WORKSOURCE INC
Employer

OC: 03/20/12
Claimant: Respondent (5)

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.26(19) - Temporary Work Assignments

STATEMENT OF THE CASE:

Worksource, Inc. (employer) appealed an unemployment insurance decision dated March 15, 2012, reference 05, which held that Michael Beatyvilla (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 4, 2012. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Derrick Flippin, Senior Account Manager. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a general laborer from May 1, 2011 through February 6, 2012. His last assignment began on September 12, 2011 with Sodexo who is a vendor that provides janitorial and cleaning services for Drake University. The assignment was only supposed to be a couple weeks but Sodexo liked the claimant and he continued working as Sodexo wanted to hire him permanently.

On February 1, 2012, Sodexo advised the employer that it could not hire the claimant because he did not have a valid driver's license, which was a requirement of employment as a Sodexo employee. Sodexo advised the employer it would employ the claimant for a couple more weeks but subsequently cancelled his assignment on February 6, 2012 because the claimant was complaining and discussing his employment situation. The claimant advised the employer he was available for work but the employer had no work for him.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits.

Iowa Code § 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) provides:

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 § 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 § 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.

The evidence demonstrates the claimant completed his most recent assignment and he let the employer know he was available for additional assignments but the employer did not have any work for him at that time. The completion of a temporary employment assignment, regardless of whether the claimant reported for a new assignment, is deemed to be a separation other than a voluntary quit. The claimant's separation from employment was with good cause attributable to the employer and benefits are allowed.

DECISION:

The unemployment insurance decision dated March 15, 2012, reference 05, is modified with no effect. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css