

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KEITH A MAYES
850 FOWLER ST
WATERLOO IA 50703

LABOR READY MIDWEST INC
ATTN PAYROLL TAX DEPARTMENT
PO BOX 2910
TACOMA WA 98401-2901

Appeal Number: 04A-UI-00119-BT
OC: 11/09/03 R: 03
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc. (employer) appealed an unemployment insurance decision dated December 22, 2003, reference 04, which held that Keith Mayes (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 January 27, 2004. The claimant did not provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Rick Bartlett, Branch Manager. Employer's Exhibit One was admitted into evidence.

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 agency. The claimant was hired on April 15, 2003, working full-time hours as a laborer. His first assignment began on April 23, 2003 and he worked Wednesday through Friday, April 25, 2003. He was directed to return to work the following Monday, April 28, 2003 but he was a no-call/no-show. The employer never heard from him again.

The claimant filed a claim for unemployment insurance benefits effective November 9, 2003 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after ending a job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule. The employer must also notify the individual that he may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code Section 96.5-1-j.

The above-mentioned Code Section is not applicable in this case, as the claimant's job assignment had not ended. The claimant was given a work ticket from Labor Ready advising him he needed to return to work on Monday, April 28, 2003 at 7:00 a.m. The claimant did not return to his assignment nor did he call his employer. He bears the burden of proving that the voluntary quit was for a good reason that would not disqualify him. Iowa Code Section 96.6-2. The claimant did not participate in the hearing and there is no evidence to indicate he quit his employment with good cause attributable to the employer. Benefits are denied.

DECISION:

The unemployment insurance decision dated December 22, 2003, reference 04, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. There is no overpayment as a result of this decision.

sdb/b