

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTHONY T TUCKER**  
Claimant

**APPEAL NO. 08A-UI-00948-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST**  
Employer

**OC: 03/11/07 R: 03**  
**Claimant: Respondent (1)**

Section 96.5(1)j – Quit/Temporary

**STATEMENT OF THE CASE:**

The employer, Labor Ready, filed an appeal from a decision dated January 18, 2008, reference 06. The decision allowed benefits to the claimant, Anthony Tucker. After due notice was issued, a hearing was held by telephone conference call on February 12, 2008. The claimant participated on his own behalf. The employer participated by Operations Specialist Angie Wheelock.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Anthony Tucker began employment with Labor Ready on April 4, 2005. His last assignment was for one day at Paragon Construction on December 18, 2007, and he completed the assignment as required.

The employer's witness maintained the company has a policy that all temporary workers must report back to the office within three working days of the end of each assignment to request more work or they will be considered a voluntary quit. The claimant maintains there was no such requirement and workers sign in on any day they wish to work and understand there is no guarantee of work.

The employer did not provide a copy of any such policy, signed and acknowledged by the claimant, of the three-day reporting rule.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1-j 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:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

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 section 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 section 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.

There is no evidence of any written notification to the claimant he must report to the employer within three working days of the end of any assignment. The employer has not sustained its burden of proof to establish he was therefore notified. The record establishes the claimant was a temporary employee who fulfilled the contract of hire when each assignment was completed. Under the provisions of the above Administrative Code section, his election not to report for further assignment is not a disqualifying separation.

**DECISION:**

The representative's decision of January 18, 2008, reference 06, is affirmed. Anthony Tucker is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw