

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYREE P WYANT
Claimant

HIRE QUEST LLC
Employer

APPEAL 18A-UI-10033-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/28/18
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(19) – Voluntary Leaving – Spot Jobs/Casual Labor
871 IAC 24.26(22) – Voluntary Leaving – Specific Period of Time

STATEMENT OF THE CASE:

The employer filed an appeal from the September 24, 2018, (reference 04) that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 19, 2018. Claimant did not participate. Employer participated through Dwight Gaines, Jr. Branch Manager.

ISSUE:

Was the claimant a spot labor employee?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired to work on a day-by-day basis. There was no guarantee of ongoing work or assignments beyond the one day he was hired to work. At the end of each day the claimant was paid for the work he completed that day. At the end of the day the employer told the workers if there would be additional work tomorrow. The claimant worked as a day laborer and was paid as a spot or day laborer. The claimant was hired and worked as a day laborer on July 2, 3, 10, 13, August 9 and lastly on August 20. As a spot or day laborer, the claimant was not required to accept any work beyond the day he was given work. Claimant completed his last job assignment on August 20.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not the result of a disqualifying reason.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(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.

Inasmuch as the claimant completed the contract of hire with the employer as contemplated, no disqualification is imposed.

The claimant was hired and paid on a day-by-day basis thus making him a spot laborer. The claimant completed all of the jobs he accepted. Under the terms of the spot labor employment relationship, and pursuant to the regulation cited above, the claimant did not quit and the employer did not discharge the claimant. He was a spot laborer who elected not to report for any additional assignments or if he did report for additional assignment no additional work was available for him. The requirement that he report in person within three days of the completion of an assignment is not applicable to his employment as he was a spot or day laborer. Therefore, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The September 24, 2018, (reference 04), decision is affirmed. The claimant's separation from employment with Hire Quest, LLC was for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs