

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHRISTIA L DIAZ**  
Claimant

**APPEAL 16A-UI-02998-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**  
Employer

**OC: 02/14/16  
Claimant: Appellant (2-R)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 4, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on March 30, 2016. The claimant Christina Diaz participated and testified. Witnesses Leonard Haynes and Britt Anderson also testified on behalf of the claimant. The employer Labor Ready Midwest participated through customer service representative, Anastasia Johnson. Employer's Exhibit 1 and 2 were received into evidence.

**ISSUE:**

Did the claimant quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a flagger with the railroad. Claimant was last assigned from October 6, 2015, and was separated from the assignment, but not the employment, on November 20, 2015. The assignment was ending due to the end of the work season. The employer and the assignment representative notified the claimant that the assignment had ended. The employer advised the claimant that there were no additional assignments available, but that she should look for text messages regarding additional assignments.

Claimant testified that she did not receive any additional text messages after November 20, 2015. The employer testified claimant continued to receive text messages through November 30, 2015, but that the text messages stopped due to claimant's inactivity after that date. The employer testified prior to the text messages stopping, recipients are sent a message notifying them the messages are going to stop. Claimant denied receiving such messages. The employer testified claimant made no attempts at contact again until February 17, 2016. The claimant testified she went in several times to ask about work, but could not remember when or who she talked to.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

Iowa Code § 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.

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 § 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 purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Claimant's job assignment ended on November 20, 2015 due to the work season ending. Claimant was notified by the employer that the assignment was ending and that it did not have another assignment for her at that time. Since she contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, no disqualification is imposed.

**DECISION:**

The March 4, 2016, (reference 01) unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

**REMAND:**

Claimant has been separated from her employment with the employer since November 20, 2015, and has not been given any additional work assignments. The issue of whether the claimant is actively and earnestly seeking work and able to and available for work is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

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