IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

PATRICE L WILLIAMS
Claimant

LABOR READY MIDWEST INC
Employer

APPEAL NO: 06A-UI-07951-DT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 04/30/06 R: 03
Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

Patrice L. Williams (claimant) appealed a representative's August 3, 2006 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Labor Ready Midwest, Inc. (employer) during the week ending July 8, 2006. Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on August 28, 2006. Both parties responded that they would participate in the hearing and provided telephone numbers at which they could be reached; the employer indicated Pia Kirchhoff would participate on behalf of the employer. Prior to the scheduled time for the hearing on August 28, 2006 the claimant contacted the administrative law judge and requested the hearing be rescheduled as the employer had sent her on an assignment that day, so she would be working at the scheduled time for the hearing. The administrative law judge did grant a postponement of the hearing.

On August 29, 2006 the administrative law judge contacted Ms. Kirchhoff to arrange a time to reschedule the hearing that would not conflict with any assignment the claimant might be working and which would work for Ms. Kirchhoff's schedule. Ms. Kirchhoff agreed that the hearing should be rescheduled for September 6, 2006 at 11:00 a.m. and that she would be available for the hearing at the number previously provided. Hearing notices confirming this rescheduling were mailed to the parties' last-known addresses of record on August 30, 2006. However, when the administrative law judge called for Ms. Kirchhoff at the scheduled time for the hearing on September 6, 2006, Ms. Kirchhhoff was not available. Therefore, the employer did not participate in the hearing. The claimant personally participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on or about May 5, 2006. For a substantial time in May 2006 and all of June 2006, she worked an assignment full time as a telemarketer at the employer's business client at a work site in Independence, Iowa. Her last day in that assignment was on or about July 5, 2006. The business client deemed the assignment to be completed, and the claimant was informed that she was no longer needed on that assignment. The claimant informed the employer that she had been told by the business client she did not need to return when she came back to the employer's office the afternoon after her last day on the assignment. She checked in for work with the employer the next day, but no additional work was available for her at that time.

REASONING AND CONCLUSIONS OF LAW:

With regard to employment with temporary employment firms, the intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

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.

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.

Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. The claimant did report the ending of the assignment to the employer and did report back to seek new work the following day. The statute does not require that a person who has been employed by a temporary employment firm remain in continual contact with that employer after the initial contact and request for additional work after the ending of the assignment. The separation is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's August 3, 2006 decision (reference 04) is reversed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs