

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANNA D BREESE
Claimant

APPEAL NO. 11A-UI-04423-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 02/06/11
Claimant: Appellant (2)

871 IAC 24.26(19) – Voluntary Quit - Spot or Casual Labor
Iowa Code § 96.5(1)j – Voluntary Leaving – Temporary Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 4, 2011, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 5, 2011. The claimant participated. The employer participated through Kathy Archer, assistant manager. Employer's Exhibits 1 and 2 were admitted into evidence.

ISSUE:

The issue is whether claimant voluntarily quit employment without good cause attributable to the employer

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant has been employed through the employer performing various temporary work since January 23, 2007. Claimant was assigned to work for a one-day assignment on January 3, 2011. The claimant completed this assignment and went to the employer's place of business that day to inquire about further work. She was advised there was no work available but that she would be called if there was an open position. She was called to work on February 22, 2011 and accepted the assignment but overslept and missed that day of work. She remains as an employee.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntarily quit her employment.

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.

The claimant is a temporary employee and is required to notify the temporary agency with three working days of the end of the assignment and of the availability to accept reassignment. In this case, the claimant gave the employer verbal notice of her availability. The failure to attend work on February 22, 2011 did not result in a termination of employment, so no disqualification is imposed. Benefits are allowed, if otherwise eligible.

DECISION:

The April 4, 2011, reference 01, decision is reversed. The claimant is eligible to receive unemployment insurance benefits, provided the claimant meets all other eligibility requirements.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/kjw