

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRENDA J TAGUE SERRANO**  
Claimant

**APPEAL NO. 14A-UI-12504-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**  
Employer

**OC: 11/02/14**  
**Claimant: Respondent (1)**

Section 96.5(1)j – Voluntary Leaving (Temporary Employment)

**STATEMENT OF THE CASE:**

Labor Ready Midwest, Inc. filed a timely appeal from a representative's decision dated November 24, 2014 (reference 01) which held claimant eligible to receive unemployment insurance benefits. After due notice was provided, a telephone hearing was held on December 29, 2014. Claimant participated. The employer participated by Ms. Brittany Brockman, Customer Service Representative. Employer's Exhibits A through D were received into evidence.

**ISSUE:**

At issue is whether the claimant voluntarily quit employment by failing to contact the temporary employment service within three business days after the completion of her last work assignment.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Brenda Tague Serrano was last assigned by Labor Ready Midwest, Inc. to work at Wal-Mart Store from November 7 through November 9, 2014. After the assignment ended, the claimant contacted the temporary employment service the following business day by telephone to give the employer a notice of her availability for additional work. The claimant had agreed to contact the temporary employment service within three business days after completing each work assignment to give the employer notice of her availability.

The employer does not keep records of telephone conversations if a voice message has not been left. Because the employer's records did not reflect that the claimant had called in, the employer believed that the claimant had not complied with the requirement that she notify the company within three business days after the completion of her assignment on November 9, 2014.

## REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant complied with the requirement that she contact the temporary employment service within three business days after completing her last work assignment. She did.

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 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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of a temporary assignment. In this case, the employer had notice of the claimant's availability because she personally notified the employer by telephone on the next business day, after the end of her assignment, of her availability to accept more work. Benefits are allowed.

**DECISION:**

The representative's decision dated November 24, 2014 (reference 01) is affirmed. The claimant's separation from employment was attributable to the employer. The claimant had been in contact with the employer about her availability as required by the statute. Benefits are allowed, provided the claimant is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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