

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN P MCCLURE**  
Claimant

**APPEAL NO. 09A-UI-00715-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**  
Employer

**OC: 10/26/08 R: 04**  
**Claimant: Respondent (2-R)**

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Labor Ready Midwest, Inc. filed an appeal from a representative's decision dated January 2, 2009, reference 02, which held that no disqualification would be imposed regarding John McClure's separation from employment. After due notice was issued, a hearing was held by telephone on February 3, 2009. The employer participated by Kathy Archer, Assistant Manager. Exhibits One and Two were admitted on the employer's behalf. Mr. McClure did not respond to the notice of hearing.

**ISSUE:**

At issue in this matter is whether Mr. McClure was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. McClure began accepting work through Labor Ready in September of 1997. On October 6, 2008, he began an assignment with Crystal Ridge Apartments. At the end of the day, he was told to return to the assignment the next day. He did not return and did not notify Labor Ready that he would not be returning. The employer has not heard from Mr. McClure since October 6.

On April 14, 2008, Mr. McClure signed a document that advised him he had to contact Labor Ready within three working days of the end of an assignment or he would be considered a voluntary quit. The notice is on a separate page that does not contain any other terms or conditions of the employment. The document sets forth the provisions of Iowa Code section 96.5(1)j in full and a copy was provided to Mr. McClure.

Mr. McClure filed a claim for job insurance benefits effective October 26, 2008. He has received a total of \$2,660.65 in benefits since filing the claim.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. McClure was placed in a two-day assignment on October 6, 2008 but only worked one day. Although he was at the Labor Ready office at the end of the workday on October 6, he gave no indication that he was not returning for the second day of the assignment. The administrative law judge appreciates that each day of work may be considered a separate assignment. Since Mr. McClure gave no indication he was not returning to Crystal Ridge Apartments on October 7, the employer had every reason to believe he accepted the assignment for October 7. Because he made no contact with Labor Ready after October 6, it must be concluded that he failed to notify the employer of the completion of his assignment within three working days as required by section 96.5(1)j.

The notice Labor Ready gave Mr. McClure concerning the three-day reporting requirement complied with the requirements of the law. It is contained on a document separate from other terms and conditions of the employment and a copy was provided to him when he signed it. Inasmuch as he had received proper notice of the requirements and failed to contact Labor Ready within three working days after the assignment ended, Mr. McClure is deemed to have voluntarily quit the employment. The evidence of record does not establish any good cause attributable to the employer for the quit. Accordingly, benefits are denied.

Mr. McClure has received job insurance benefits since filing his claim. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If an overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. Benefits will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if Mr. McClure will be required to repay benefits already received.

**DECISION:**

The representative's decision dated January 2, 2009, reference 02, is hereby reversed. Mr. McClure voluntarily quit his employment with Labor Ready on October 6, 2008 for no good cause attributable to the employer. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. This matter is remanded to Claims to determine if Mr. McClure will be required to repay benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css