

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY D JOLLEY
Claimant

APPEAL NO: 13A-UI-02778-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 01/27/13

Claimant: Respondent (1)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc. (claimant) appealed a representative's February 28, 2013 decision (reference 03) that concluded Kimberly D. Jolley (claimant) was qualified to receive unemployment insurance benefits after an at least temporary separation from employment from Labor Ready Midwest, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 4, 2013. The claimant participated in the hearing. Pat Maxwell appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 April 17, 2012. Her final assignment began on or about December 1, 2012. She worked as a laborer/production worker at the employer's Council Bluffs, Iowa business client through December 18, 2012.

The claimant had previously worked at the same business client in May and in October 2012. When she started working again for that business client in December, the understanding between the claimant, the business client, and the employer's representative who was handling the assignment was that the assignment would be continuing for six weeks. The claimant worked through December 18, and then by mutual agreement of the three parties the claimant was to be off work and was to return to work on December 26. However, the employer's representative who was handling the assignment instructed the claimant to call her prior to driving in for work on December 26.

When the claimant called the representative on December 26, the representative reported that there was no work for the claimant on that day, but that she would call the claimant when there

was work. The claimant checked in again on several days, including December 31, but was again told there was no work. Ultimately the claimant determined to file a claim for unemployment insurance benefits when she coincidentally met a supervisor from the business client on January 26, 2013, who informed the claimant that the business client had been asking for the claimant, even though the employer's representative had been telling the claimant that she was not needed.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The claimant did check in for reassignment with the employer as required but was told that there was no work available for her. The claimant is not required by the statute to remain in regular periodic contact with the employer in order to remain "able and available" for work for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of a 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 February 28, 2013 decision (reference 03) is affirmed. 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs