

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER B MALONE
Claimant

APPEAL NO. 11A-UI-03660-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 01-23-11
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(19) – Voluntary Leaving - Spot Jobs/Casual Labor

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 10, 2011, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on April 14, 2011. The claimant did participate. The employer did participate through Mike Nicolosi, branch manager. Employer's Exhibit One was entered and received into the record.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned to work Deffenbaugh Industries as a general labor beginning August 10, 2010 through October 18, 2010, when he stopped accepting additional assignments.

The claimant was hired to work on a day-by-day basis and was hired to work for only one day. He was to report to Labor Ready every morning he wished to be placed at an assignment. He was paid on a daily basis for the work performed each day.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not the result of a disqualifying reason.

Iowa Code § 96.5-1 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.

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.

The claimant was hired and paid on a day-by-day basis, thus making him a spot laborer. The claimant completed all of the jobs he accepted. Under the terms of the spot labor employment relationship, and pursuant to the regulation cited above, the claimant did not quit and the employer did not discharge the claimant. He was a spot laborer who elected not to report for any additional assignments or, if he did report for additional assignment, no additional work was available for him. The requirement that he report in person within three days of the completion of an assignment is not applicable to his employment, as he was a spot or day laborer. Therefore, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The March 10, 2011 (reference 01), decision is affirmed. The claimant's separation from employment with Labor Ready Midwest was for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw