

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAYNALDO L VAHLE
Claimant

WORKSOURCE INC
WORKSOURCE STAFFING
Employer

APPEAL NO. 07A-UI-03890-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/18/07 R: 04
Claimant: Respondent (1/R)

Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

Worksource, Inc./Worksource Staffing (employer) appealed a representative's April 11, 2007 decision (reference 01) that concluded Raynaldo L. Vahle (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 30, 2007. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Veronica Gonzalez appeared on the employer's behalf. Based on the evidence, the arguments of the employer, 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 either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant began taking assignments with the employer on December 10, 2006. Beginning that date he worked full time for the employer's West Burlington, Iowa, business client as a general concrete laborer from 6:00 a.m. to 6:30 p.m., Monday through Saturday. His last day on the assignment prior to April 23, 2007 was March 19, 2007. The assignment temporarily ended as of that date because the business client had insufficient work available. The business client informed the employer of its layoff of the claimant due to lack of work.

The business client was interested in having the claimant return to the assignment as of April 3 when additional work became available. The employer called a phone number it had for the claimant and left a message for him on April 3 and left two messages for him on April 9. The employer does not know if the claimant received those messages. Additional unsuccessful phone attempts were made to contact the claimant on April 12 and April 13. The employer then sent the claimant a certified letter that it was seeking to recall him to work, which the claimant did receive, and the claimant did return to work for the business client on April 23.

REASONING AND CONCLUSIONS OF LAW:

A separation is disqualifying if it is a voluntary quit without good cause attributable to the employer or if it is a discharge for work-connected misconduct.

Iowa Code section 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 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

- a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The initial separation occurred on March 19 when the claimant was laid off by the business client due to a lack of work. The separation is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment or a return to the prior business client would be a different potentially disqualifying issue, but appears to be the issue the employer is actually asserting. Benefits are allowed.

The refusal of an offer of recall to work issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5). However, the administrative law judge notes that the review will be in the context of the rule requiring that there be an actual successful communication of the offer with a definite refusal. 871 IAC 24.24(1)a.

DECISION:

The representative's April 11, 2007 decision (reference 01) is affirmed. The claimant was laid off from his assignment on March 19, 2007 due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the potential refusal issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css