

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PERCY L MOORE
Claimant

APPEAL NO. 08O-UI-04284-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 12-30-07 R: 03
Claimant: Respondent (1)

871 IAC 24.26(19) – Spot Jobs

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 8, 2008, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on March 13, 2008. The claimant did participate. The employer did participate through Angie Wheelock, Operations Specialist. Appeal Number 08A-UI-01984-H2T reversed the fact-finding decision and denied benefits finding the claimant overpaid unemployment insurance benefits.

The Employment Appeal Board remanded the matter for the limited purpose of taking testimony on the “substance of the contract between the Claimant and the Employer.” After due notice was issued, a new telephone hearing was held on May 19, 2008. The claimant did participate. The employer participated by Angie Wheelock, Operations Specialist. Employer’s Exhibit One was received. Claimant’s Exhibit A was received.

ISSUE:

Did the claimant voluntarily quit a spot job?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of December 30, 2007.

The employer indicates that while a worker like the claimant may be given a repeat ticket at the end of a work shift, Labor Ready considers that at the end of each workday after having completed their work, each employee quits their employment. Even if given a repeat ticket, the claimant was still required to report to the Labor Ready office and not to the work location at the beginning of every day. Labor Ready was asked to provide and indicated they would provide the notification given to and signed by the claimant to comply with Iowa Code section 96.5(1)(j). No such notification was included in the documents the employer submitted.

The claimant reported to the Labor Ready office on December 4 and was sent to work at the Standard Distribution plant. At the end of his work shift, the claimant reported back to Labor Ready to be paid and was asked by Ms. Wheelock if he were going to return the following day

for additional work at Standard Distribution. The claimant told Ms. Wheelock that he would be returning to work on December 5 to go to Standard Distribution. The claimant was required to present himself at the Labor Ready office on December 5, he was not to go to the Standard Distribution work site. The claimant did not return to the Labor Ready office on December 5 or any day thereafter, as the sign-in sheets submitted by Labor Ready indicate he did not return at all for work during the month of December.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily quit a spot job.

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 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 majority of the evidence convinces the administrative law judge that the claimant was not an ongoing employee of Labor Ready but rather was a spot laborer, as Labor Ready admittedly considered him a voluntary quit at the end of each shift. Labor Ready did not anticipate an ongoing employment relationship with the claimant, as they considered him a quit until he returns to the Labor Ready office and signs in as available for more work. Labor Ready indicated they would provide a copy of the 96.5(1)(j) notification given to the claimant, but they did not do so, leading the administrative law judge to conclude that one was never given to or signed by the claimant.

The relationship between Labor Ready and the claimant was one of spot jobs where the claimant fulfilled the contract of hire at the end of each day's work, notwithstanding that he may have been given a repeat ticket. Under the provision of the above administrative code section, the claimant's election not to report for further work is not a disqualifying voluntary quit.

The claimant filed a claim for benefits with an effective date of December 30, 2007.

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3)

disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

Any offer of work made to the claimant on December 4 for December 5 was made while he did not have a claim for unemployment insurance benefits pending. The administrative law judge does not have jurisdiction to evaluate the offer or refusal of work, since the offer of employment took place outside of the benefit year. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The February 8, 2008, reference 02, decision is affirmed. The claimant's election not to report for further spot jobs is not a disqualifying quit. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw