

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JEREMIAH J CHRISTIE

Claimant

APPEAL NO. 14A-UI-07689-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

OC: 12/22/13

Claimant: Respondent (4)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 16, 2014, reference 03, that concluded the claimant's separation was not for disqualifying reasons. A telephone hearing was held on August 19, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Nicole Petersmith participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, he was given a statement to read and sign that said he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked part time, as needed for the employer typically on one-day assignments. He started working May 22, 2014. At that time, the employer had a system set up that would send mass text messages to employees based on their job skills alerting them about potential available job openings and when job openings were filled. During the week of June 15 to 21, 2014, the claimant worked at Crystal Distributing for 9.5 hours on June 16 and 7.75 hours on June 17. The claimant responded a text on June 18 about a job to start on June 19, but someone else accepted the job before the claimant responded so he did not get the job. The next day, June 20, he worked at Crystal Distributing for 9.5 hours after the job he originally accepted fell through.

The claimant did not work during the week of June 22. He, along with others, were sent text messages about some jobs during the week. There is no record of any replies to those messages. It is not known if the claimant would have received a job since the openings

sometimes filled quickly. The next contact the claimant had with the employer was on June 27 when he replied that he would take a certification class for flagging.

The claimant did not work during the week of June 29. He, along with others, were sent text messages about some jobs during the week. There is no record of any replies to those messages. It is not known if the claimant would have received a job since the openings sometimes filled quickly.

The claimant did not work during the week of July 6. He, along with others, were sent text messages about some jobs during the week. There is no record of any replies to those messages. It is not known if the claimant would have received a job since the openings sometimes filled quickly.

The claimant stopped filing for benefits after the week ending July 12. The claimant started working again for the employer at Crystal Distributing on July 21 and continued to work for the employer through the day of the hearing.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

The claimant is not currently receiving benefits because he has not satisfied a discharge disqualification based on a separation from another employer.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

Iowa Admin. Code r. 871-24.26(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.

The evidence shows that the claimant is working day labor jobs when work is available. The employer testified that the claimant could have worked at Crystal Distributing everyday but the text messages do not bear that out. While Iowa Admin. Code r. 871-24.26(19) states that the

election not to report for a new assignment to work would be treated as a refusal of work, in this case the text messages are directed to multiple employees and are not personal offers of guaranteed work, which is required for a bona fide offer of work. Iowa Admin. Code r. 871-24.24(1)a.

The claimant was properly notified that he needed to contact the employer within three days after completing a work assignment or he would be considered a voluntary quit. He did not contact the employer within three working days of his last day of work on June 20 and has not shown good cause for failing to do so. The claimant is deemed to have voluntarily quit as of June 25, 2014. This means a disqualification would be imposed effective June 22, 2014.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, it will not be charged for benefits based on the wages paid through June 25, 2014. Charges based on wages paid after June 25, 2014, will be determined at that time based on the facts at that time.

DECISION:

The unemployment insurance decision dated July 16, 2014, reference 03, is modified in favor of the employer. Effective June 22, 2014, the claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css