

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEVIN L THURMAN
Claimant

LABOR READY MIDWEST INC
Employer

APPEAL 15A-UI-12566-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/18/15
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(19) – Voluntary Quitting – Spot Jobs/Casual Labor

STATEMENT OF THE CASE:

Kevin Thurman (claimant) filed an appeal from the November 10, 2015 (reference 01) unemployment insurance decision that denied benefits based upon the determination he failed to notify Labor Ready Midwest, Inc. (employer) within three days of the end of his assignment and had been put on notice of this duty in writing. The parties were properly notified about the hearing. A telephone hearing was held on December 3, 2015. The claimant participated on his own behalf. The employer participated through Customer Service Representative Nicole Petersmith. Claimant's Exhibit A was received. Employer's Exhibit One was received.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began accepting assignments on February 27, 2013 and his last day worked was October 22, 2015. The claimant's last assignment was scheduled for eight days and ended when he had completed the assignment.

The claimant would learn of job opportunities through mass text messages sent to all individuals who had a skill set that matched the position. He would then be responsible for sending a response back stating if he was interested in the position. If he did not respond quickly enough, he would receive a response that the position had been filled. Through the date of the appeals hearing, the claimant continues to receive mass text messages from the employer.

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. Benefits are allowed.

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.

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 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 claimant was hired for spot labor and did not have any set employment. He was not required to return to the employer to let them know he was available. Prior to the end of his last assignment, he had not notified the employer he was available and continued to receive text messages to which he responded and would work for a short duration. Inasmuch as the claimant completed the contract or terms of hire with the employer as contemplated, no disqualification is imposed.

DECISION:

The November 10, 2015 (reference 01) unemployment insurance decision is reversed. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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