

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CHERISH R WISE**  
Claimant

**APPEAL 16A-UI-06965-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**  
Employer

**OC: 05/22/16**  
**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:**

The claimant filed an appeal from the June 17, 2016, (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment when she failed to notify her temporary employer within three working days of the completion of her last assignment. The parties were properly notified of the hearing. A telephone hearing was held on July 13, 2016. The claimant, Cherish R. Wise, participated. The employer, Labor Ready Midwest, Inc., participated through Nicole Petersmith, customer service representative. Employer's Exhibits A and B were received and admitted into the record without objection.

**ISSUE:**

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: Claimant was employed full time as a laborer beginning November 14, 2014. The employer is a staffing agency. Prior to the issuance of the June 17, 2016, (reference 03) fact-finding decision, claimant was last assigned on June 6, 2016, and completed a three-day assignment that ended on June 8, 2016.

The employer sends text messages to employees about job assignments that meet the employees' job qualifications. Each employee can then accept a job or inquire for more information about a job. However, an employee sending a text message indicating she wants the particular job does not guarantee that she will get that job. Additionally, if an employee sends a text "work" once each week, this keeps the employee active in the employer's system. Claimant received daily messages through June 15, 2016, notifying her about available job assignments.

After claimant was notified her job had completed on June 8, she got a text stating the employer had another job available for her that day. Claimant responded that she would not be able to

take work that day because she was moving. On June 11, claimant responded “Fg” to a message from the employer looking for flaggers and instructing the recipient to respond “FG” if she was available for that job. (Exhibit B) Claimant was assigned to that job, but she called in prior to the start time and did not end up working. Also on June 11, claimant went into the Labor Ready office and reported that she was available for work.

On June 13, claimant responded “Bg” to a message from the employer inviting eligible employees who could pass background checks to respond “BG.” (Exhibit B) Claimant testified she responded to a text message on June 21, for a bottle-capping assignment. She was not sent out for this job. Claimant checked in at 6:29 a.m. on June 27, stating her availability for work. Claimant checked in on July 4, stating her availability for work. Claimant most recently worked on an assignment through the employer on July 12, 2016. Claimant has never told her employer that she quit.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant’s separation was not the result of a disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

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...

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The record indicates claimant is still employed with this employer. Claimant continues to receive daily potential job assignment text messages from the employer. Claimant has expressed availability to work to the employer, and she has responded to job messages.

Claimant received an assignment as recently as July 12, 2016. Inasmuch as claimant successfully completed the job assignment that concluded on June 8, 2016, no disqualification is imposed. Benefits are allowed, provided claimant is otherwise eligible.

**DECISION:**

The June 17, 2016, (reference 03), unemployment insurance decision is reversed. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.

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Elizabeth Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/pjs