

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAVERICK WEBSTER

Claimant

APPEAL NO. 06O-UI-09373-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

**OC: 05/21/06 R: 03
Claimant: Respondent (1)**

Section 871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc. filed an appeal from a representative's decision dated June 19, 2006, reference 04, which held that no disqualification would be imposed regarding Maverick Webster's separation from employment. After due notice was issued, a hearing was held by telephone on July 20, 2006. The July 27, 2006 decision of the administrative law judge reversed the allowance of benefits and imposed an overpayment. Mr. Webster filed a further appeal with the Employment Appeal Board which, on September 20, 2006, remanded the matter for a new hearing because Mr. Webster had not received notice of the prior hearing.

Pursuant to the remand order, due notice was issued scheduling the matter for a telephone hearing on October 4, 2006. Mr. Webster participated personally. The employer participated by Pia Kirchoff, Branch Manager.

ISSUE:

At issue in this matter is whether Mr. Webster was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Webster began working through Labor Ready on August 26, 2005. On November 11, he was to start an assignment with Cedar Falls Construction. The assignment was out of town and was expected to last one to two weeks. Mr. Webster was given a \$100.00 advance towards his expenses. He was to meet with another individual who would drive to the job site. Mr. Webster was at the designated point at 3:00 a.m. as agreed and waited for over an hour, but the individual did not show.

Later on the morning of November 11, Mr. Webster contacted Labor Ready to explain why he did not go to the assignment. He was not offered other work at that time. Others who were assigned to work for Cedar Falls Construction were already at the job site approximately four hours away. Mr. Webster became separated from the employment on November 11, 2005.

REASONING AND CONCLUSIONS OF LAW:

Mr. Webster was hired for placement in temporary work assignments. An individual so employed must complete his last assignment in order to avoid the voluntary quit provisions of the law. 871 IAC 24.26(19). Although Mr. Webster did not complete his assignment with Cedar Falls Construction, the failure to do so was through no fault of his own. He was not responsible for finding or providing his own transportation to the out-of-town job site. He was to ride with another individual but the individual did not appear to give him a ride. Inasmuch as the failure to work the assignment was not Mr. Webster's fault, no disqualification is imposed.

The employer initially indicated that Mr. Webster had made no contact since his failure to appear for work on November 11. However, the employer acknowledged that he did call on either November 11 or November 12. The administrative law judge will accept as true Mr. Webster's testimony that the call was on November 11. The employer knew at that point that he was not on the assignment and would be unable to go since the rest of the crew was already there. The employer did not offer him any other work at that time. For the above reasons, it is concluded that this separation was not a disqualifying event.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Mr. Webster is eligible to receive job insurance benefits as he lost his employment for no disqualifying reason.

DECISION:

The representative's decision dated June 19, 2006, reference 04, is hereby affirmed. Mr. Webster was separated from Labor Ready on November 11, 2005 for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs