

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT G WALSH**

Claimant

**APPEAL NO: 09A-UI-19390-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**

Employer

**OC: 11/08/09**

**Claimant: Respondent (1)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(19) – Temporary Employment

**STATEMENT OF THE CASE:**

Labor Ready Midwest, Inc. (employer) appealed a representative's December 10, 2009 decision (reference 02) that concluded Robert G. Walsh (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 8, 2010. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Rob Sawyer appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on November 11, 2008. He worked on day-to-day assignments with the employer's business clients in the Waterloo, Iowa area. His final assignment was on February 18, 2009. He worked a full day as a general laborer doing construction clean up at the employer's business client. The assignment ended that date because the business client deemed the assignment to be completed. Both the claimant and the employer knew it was a day-to-day assignment when the assignment was offered and accepted. The assignment ended that date because the business client deemed the assignment to be completed. The claimant did report back to the employer at the end of the day on February 18; both the employer and the claimant knew as of the end of the day on February 17 that there was no further work available at that time. The claimant did not continue to regularly seek reassignment with the employer.

**REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if he fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. 871 IAC 24.26(15).

Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. The claimant did report back to the employer after the completion of the assignment. The claimant is not required by the statute to remain in regular periodic contact with the employer in order to remain "able and available" for work for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. 871 IAC 24.26(19). Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's December 10, 2009 decision (reference 02) is affirmed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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