

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BLAIR A AVITT
Claimant

APPEAL NO. 10A-UI-14967-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 09/12/10
Claimant: Respondent (1)

Section 96.5-1-j – Separation From Temporary Employment Agency

STATEMENT OF THE CASE:

Labor Ready Midwest filed a timely appeal from a representative's decision dated October 19, 2010, reference 02, which held the claimant eligible to receive unemployment insurance benefits. After due notice was issued, a telephone hearing was held on December 8, 2010. Although duly notified, the claimant did not participate. The employer participated by Ms. Maureen Rodgers, customer service representative.

ISSUE:

The issue is whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all the evidence in the record, the administrative law judge finds: Mr. Avitt was most recently assigned by Labor Ready Midwest to work as a delivery assistant for Select Comfort. Mr. Avitt was employed from April 10, 2008, until August 16, 2010, when the temporary assignment ended. Mr. Avitt reported to Labor Ready offices that day and informed the employment agency that the assignment had ended. No other assignments were available to the claimant that day with Labor Ready Midwest.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Avitt's separation from the temporary employment agency was for good cause attributable to the employer. It was.

Iowa Code section 96.5-1-j 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, but the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

871 IAC 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 evidence in the record indicates that the claimant completed his most recent temporary assignment and informed the temporary employment service of the end of the assignment and sought reassignment that day. No other assignments were available to Mr. Avitt upon the completion of his most recent assignment at Select Comfort.

Based upon the evidence in the record and the application of the appropriate law, the administrative law judge concludes that Mr. Avitt's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Mr. Avitt is eligible for benefits, provided he meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated October 19, 2010, reference 02, is affirmed. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw