

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FELIX F SABAL

Claimant

APPEAL NO: 13A-UI-01585-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

OC: 12/30/12

Claimant: Respondent (1)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc. (employer) appealed a representative's February 1, 2013 decision (reference 02) that concluded Felix F. Sabal (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 March 11, 2013. 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. Laura Langenberg 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 October 31, 2011. His final assignment began on October 8, 2012. He worked full time shifts as a dishwasher at the employer's business client on a day labor basis through October 24, 2012. He would check in each day and be sent to the assignment for work that day. On October 25 the claimant reported in that morning and picked up his check for his work on October 24, but was informed that the work was not available for him that day. He did not continue to seek reassignment after that date as required by the employer's policies to avoid being considered to be a voluntary quit.

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; 871 IAC 24.26(15).

Here, the employer was aware that the business client had ended the assignment as of the end of the work shift on October 24; it considered the claimant's assignment to have been completed. The claimant did seek reassignment on October 25, but the work was not available to him on that date. The claimant is not required by the law to continue to make regular contact with the employer to seek reassignment or 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. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's February 1, 2013 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css