

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ELOY D FERNANDEZ
1603 – 5TH AVE
COUNCIL BLUFFS IA 51501

LABOR READY MIDWEST INC
ATTN PAYROLL TAX DEPARTMENT
PO BOX 2910
TACOMA WA 98401-2910

Appeal Number: 04A-UI-09558-CT
OC: 07/25/04 R: 01
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)j – Temporary Employment

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc. filed an appeal from a representative's decision dated August 25, 2004, reference 02, which held that no disqualification would be imposed regarding Eloy Fernandez' separation from employment. After due notice was issued, a hearing was held by telephone on September 30, 2004. The employer participated by David Bangert, Branch Manager. Exhibits One, Two, and Three were admitted on the employer's behalf. Mr. Fernandez did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Labor Ready is a temporary placement firm through which Mr. Fernandez began working on January 20, 2004. Work is provided on a day-to-day basis and individuals have to report to Labor Ready on a daily basis to be assigned work. When he filed his claim for job insurance benefits effective July 25, 2004, Mr. Fernandez had last worked for Labor Ready on July 16, 2004. He next worked on August 2, 2004.

Labor Ready has not required Mr. Fernandez to sign any document advising that he has to seek reassignment within three working days following the end of an assignment. He is still considered an employee of the company.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Fernandez was separated from employment for any disqualifying reason. He 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. See 871 IAC 24.26(19). The evidence establishes that Mr. Fernandez did, in fact, complete his last assignment before filing his for job insurance benefits. He would only be required to seek further work through Labor Ready if the provisions of Iowa Code section 96.5(1)j have been met. This section requires that the temporary employer provide the employee with written notice that he has three working days in which to seek reassignment after the end of an assignment. Labor Ready has not provided Mr. Fernandez with such notice. Therefore, the provisions of section 96.5(1)j may not serve as a basis for disqualification from job insurance benefits.

After considering all of the evidence, the administrative law judge concludes that Mr. Fernandez was temporarily separated from employment with Labor Ready for no disqualifying reason. Therefore, benefits are allowed.

DECISION:

The representative's decision dated August 25, 2004, reference 02, is hereby affirmed. Mr. Fernandez was separated from employment for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/b