

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TODD E ROBINSON
Claimant

APPEAL NO. 15A-UI-14057-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 11/22/15
Claimant: Appellant (2)

Section 96.5-1-j – Timely Request for Another Job Assignment – Temporary Service

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated December 15, 2015, reference 01, which denied unemployment insurance benefits finding that the claimant voluntarily quit work on November 10, 2015 when he failed to notify the temporary employment firm within three working days of the completion of his last work assignment. After due notice was provided, a telephone hearing was held on January 13, 2016. Claimant participated. The employer participated by Ms. Julia Topp, 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 considered the evidence in the record, the administrative law judge finds: Todd Robinson began employment with Labor Ready Midwest, Inc. on April 21, 1998. Mr. Robinson generally works on short-term assignments or spot jobs through Labor Ready Midwest, Inc. At times Mr. Robinson reports to the employer's facility for spot jobs; at other times the company contacts workers via telephone or text messaging to determine their availability for work and to offer them short-term assignments or spot jobs.

Mr. Robinson accepted a one-day spot job at the Ovation Food Company for November 5, 2015. The assignment came to an end by its own terms at the end of the work day. Mr. Robinson went to the employer's office facilities the following day, November 6, 2015 and spoke to a representative of Labor Ready Midwest, Inc. at that time indicating that he was looking for work.

The employer's records do not reflect that Mr. Robinson checked in for work on November 6, 2015 and it is the employer's belief that the claimant did not re-contact the temporary employment service until December 8, 2015 and thus did not comply with the requirement that he contact the temporary employment service within three working days after the completion of

his most recent work assignment to establish his availability for further work. It is the employer's further belief that Mr. Robinson may have been provided a copy of the three-day contact agreement, however, the employer's witness has no personal knowledge on that issue as she was not employed by the company at that time. Mr. Robinson did not get a copy of the agreement to contact the employer within three working days. He testified that he maintains contact with the temporary employment service both in person and by telephone.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left employment with good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(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.

Since there is no evidence the employer provided the claimant with a written copy of the reporting policy and did not submit such for the hearing, the claimant's recollection that he did not receive notice of the reporting policy is credible. Without that, the claimant was reasonable to report for additional work when he did. Benefits are allowed.

The purpose of the statute is to provide notice to the temporary agency employer the claimant is available for work at the conclusion of the temporary assignment. In this case the employer's practice was also to personally contact employees by telephone to establish their availability for additional assignments in situations where a worker had not otherwise established his availability, but the employer desired to assign the employee to temporary job assignments. In light of the employer's policies, the claimant was reasonable in his belief that the employer had notice that he was available for more work assignments. Benefits are allowed.

DECISION:

The representative's decision dated December 15, 2015, reference 01, is reversed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs