

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY R PANOSH
Claimant

APPEAL NO. 07A-UI-07854-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

**OC: 07/01/07 R: 02
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 10, 2007, reference 02, that concluded the claimant's separation from employment was not under disqualifying conditions. A telephone hearing was held on September 6, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Dixie Derby participated in the hearing on behalf of the employer. The hearing had been originally scheduled for August 30, 2007, at 8:30 a.m. The claimant, however, did not receive the hearing notice in the mail until the morning of August 30, 2007. He attempted to call the appeals bureau when he got the notice but was not able to get through until about 10:18 a.m. The hearing was reopened and rescheduled for September 6, 2007, because the claimant did not receive the hearing notice in a timely manner through no fault of the claimant.

The claimant requested the opportunity to send in a statement from a supervisor at the client business he last worked for. He explained that he had a hard time getting in touch with the supervisor before the hearing. The statement was received, marked as Exhibit A, and sent to the employer for objections. The employer objected on the grounds that the Exhibit was untimely. The objection is sustained and the exhibit is not entered. Exhibits are required to be sent in before the hearing and the claimant had ample opportunity to send in the statement before the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, he signed a statement that he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked for the employer from July 28, 2006, to July 3, 2007. He had been working a long-term assignment at Garling Construction that ended on July 3, 2007. The

claimant completed the work assignment and had been informed by a supervisor at Garling Construction that it did not have any further work for him.

After work on July 3, 2007, the claimant reported to Labor-Ready and spoke to the branch manager, Dixie Derby. He asked her whether the employer had any long-term assignments available. Derby told him she had no other work for him. He picked up his final check and left.

Workers at Labor Ready report to work each morning and sign-in for available work unless they are on long-term assignments for which the employer provides the worker with weekly tickets. The claimant has not reported to Labor Ready after July 3. He called in a couple times afterward and left messages on the Labor Ready helpline asking about work. Derby called the claimant a couple of times after July 3 and left messages for him.

Derby talked to the claimant about a driving job with Delong Construction and a one-day assignment working at a carnival, but the conversations took place before the effective date of his claim for unemployment insurance benefits of July 1, 2007.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony that he contacted Derby after completing his work assignment on July 3, 2007, and that she told him that the employer did not have any work for him at that time. This is all that is required under Iowa Code section 96.5-1-j. The fact that he did not report to Labor Ready personally and sign up on the Labor Ready sign-up sheet does not disqualify him.

I also believe that the other direct conversations about work took place before July 1, 2007. Disqualifications for refusing suitable work can only be imposed for work offered after a claim for unemployment insurance benefits has been filed. 871 IAC 24.24(8). The fact that Derby called and left a message for the claimant does not establish any grounds for disqualifying him because a definite offer of a suitable job laying out the terms of employment must be made to a claimant either by personal contact or by a registered letter before any disqualification can be imposed under Iowa Code section 96.5-3.

DECISION:

The unemployment insurance decision dated August 10, 2007, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs