

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN S TORBOL**

Claimant

**APPEAL NO: 14A-UI-03056-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**

Employer

**OC: 02/02/14**

**Claimant: Respondent (1/R)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(19) – Temporary Employment  
Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Labor Ready Midwest, Inc. (employer) appealed a representative's March 10, 2014 decision (reference 01) that concluded Brian S. Torbol (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 April 11, 2014. The claimant participated in the hearing. Sharonda Johnson appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

**FINDINGS OF FACT:**

The employer is a temporary employment firm. The claimant began taking assignments from the employer, working out of the employer's Dubuque, Iowa office, as of December 15, 2011. After prior periods of employment with the employer, most recently prior to establishing his claim for benefits effective February 2, 2014 the claimant worked an assignment with the employer from December 16 through December 20, 2013. The assignment ended because the employer's business client determined to end it because the work was completed. The claimant did check in for work on December 23, 2013, but the only work available was about an hour away. He then did work assignments on at February 15, February 17, and February 18, and completed those assignments. He discussed working another assignment on February 19, but called off that assignment before the assignment began. The employer also indicated that there was work for the claimant on March 12, 2014; there was conflicting testimony as to whether the claimant worked or declined that assignment.

## **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. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. 871 IAC 24.26(15).

Here, the employer was aware that the business client had ended the assignments on both December 20, 2013 and February 18, 2014; it considered the claimant's assignments for those days to have been completed. The claimant had communication with the employer on both December 23, 2013 and February 19, 2014 regarding seeking new assignments. Regardless of whether the claimant continued to seek a new assignment after those communications, 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.

An issue arose during the hearing as to whether the claimant had declined offers of suitable work without good cause on February 19 and March 12, 2014. This issue has not been previously reviewed by a Claims representative and was not included in the notice of hearing for this case; the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5). The administrative law judge notes that any question as to whether there could have been a refusal of suitable work without good cause on December 23, 2013 is moot because the claimant did not have an open claim for unemployment insurance benefits at that time. 871 IAC 24.24(8).

## **DECISION:**

The representative's March 10, 2014 decision (reference 01) 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. The matter is remanded to the Claims Section for investigation and determination of the refusal issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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