

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN TOMLINSON
Claimant

APPEAL NO: 06A-UI-08746-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

OC: 07-09-06 R: 12
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.26(19) – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 25, 2006, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 18, 2006. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing notice as required by the hearing notice. Todd Ashendfelder, Staffing Specialist, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct or whether the claimant voluntarily quit and whether he is overpaid benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired by Manpower Temporary Services to work a temporary assignment at NSK from October 21, 2005 to November 1, 2006. The client ended his assignment due to attendance issues after he left early October 31, 2005, because he was tired. He completed the work assignment as defined by Iowa law. The employer notified him that the client ended his assignment and on February 15, 2006, the employer offered the claimant another position at Romec Corporation but he stated he was working full-time at McDonalds. The claimant called April 21, 2006, and told the employer he was available but the employer did not have any work at that time and the claimant has not contacted the employer since that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not the result of a disqualifying reason.

Iowa Code section 96.5-1 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.

871 IAC 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.

The claimant completed the contract of hire with the employer by continuing the assignment until the client stated it no longer wished to have him as an employee. Additionally, the employer was aware the assignment ended because it notified the claimant the client did not want him to return. When an employee completes an assignment he is not required to seek reassignment from the temporary employment agency, especially in cases where he may wish to look elsewhere for employment. Finally, when the employer called the claimant about an opening in February 2006, the claimant refused the offer because he had full-time employment at that time. Inasmuch as the claimant completed the contract of hire with the employer, no disqualification is imposed.

DECISION:

The August 25, 2006, reference 03, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/cs