

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM L SIRES

Claimant

APPEAL NO. 15A-UI-01382-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

OC: 01/04/15

Claimant: Respondent (5)

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 23, 2015, reference 01, decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant had been discharged on January 3, 2015 for no disqualifying reason. After due notice was issued, a hearing was held on February 25, 2015. Claimant William Sires participated. Nicole Petersmith represented the employer. Exhibits One and Two were received into evidence. The administrative law judge took official notice of the Agency's administrative record or benefits paid to the claimant. The administrative law judge took official notice of the fact-finding materials for the limit purpose of determining whether the employer participated in the fact-finding interview and, if not, whether the claimant engaged in fraud or intentional misrepresentation in connection with the fact-finding interview.

ISSUE:

Whether the claimant's separation from the temporary employment agency on or about January 3, 2015 was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Labor Ready Midwest is a temporary employment agency. Williams Sires began getting work through Labor Ready in 2013 and performed work in a series of day-labor temporary work assignments. Prior to returning to perform work for the employer on January 19, 2015, Mr. Sires had most recently performed work for the employer in a one-day assignment on December 30, 2014. Mr. Sires completed the work the employer had for him that day. On December 31, 2014, Mr. Sires went to the employer's office to complete tax-related paperwork at the employer's request.

The employer has an end-of-assignment notification policy that obligates employees to contact the employer with three working days of completing an assignment to request a new assignment or be deemed to have quit and risk being disqualified for benefits. Though the employer had Mr. Sires sign the policy in October 2013, the employer did not give Mr. Sires a copy of the policy document he signed.

REASONING AND CONCLUSIONS OF LAW:

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.

Mr. Sires' temporary separation from the employer on December 30, 2014, was for good cause attributable to the employer. Though the employer has an end-of-assignment notification requirement, and had Mr. Sires sign the policy, the employer failed to comply with the statutory requirement that the employer provide Mr. Sires with a copy of the policy he had signed. Accordingly, the employer cannot claim the benefit of the statute to argue that Mr. Sires should be disqualified for benefits in connection with the December 30, 2014 separation. Rather, Mr. Sires fulfilled his contract of hire when he completed the day-labor assignment on December 30, 2014 and was under no obligation to seek further work through the employer. Mr. Sires is eligible for benefits provided he is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The January 23, 2015, reference 01, decision is modified as follows. The claimant's December 30, 2014 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs