

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

TERRY M MADEN
217 JACKSON APT H
OSCEOLA IA 50213-1565

LABOR READY MIDWEST INC
ATTN PAYROLL TAX DEPARTMENT
PO BOX 2910
TACOMA WA 98401-2901

LABOR READY MIDWEST
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-10619-BT
OC: 08/22/04 R: 02
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 26.14(7) – Late Call
Section 17A.12-3 – Non-appearance of Party
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc. (employer) appealed an unemployment insurance decision dated September 20, 2004, reference 04, which held that Terry Maden (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 21, 2004. The claimant was not available at the number provided, and therefore, did not participate. The employer participated through John Bruce, Branch Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time laborer from December 12, 2002 through February 9, 2004. He voluntarily quit his employment when he stopped reporting for work.

The claimant contacted the Appeals Section on October 21, 2004, at 2:10 p.m. The record closed at 2:08 p.m. The claimant received the hearing notice prior to the hearing and provided a telephone number at which he could be contacted. The claimant was not at that telephone number and did not provide Iowa Workforce with a number where he could be contacted. The claimant requested that the record be reopened.

The claimant filed a claim for unemployment insurance benefits effective August 22, 2004 but has not received benefits after the separation.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant's request to reopen the hearing should be granted or denied. If a party responds to a hearing notice after the record has been closed, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant indicated he was not at the number provided because he got sick and was not at work. When he was questioned as to why he did not provide us with an updated telephone number, he again stated it was because he got sick and he did not know he was going to get sick. The claimant did not provide a reason as to why he did not provide an updated telephone number after he got sick and left. The claimant did not establish good cause to reopen the hearing. Therefore, his request to reopen the hearing is denied.

The next issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits.

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.

The claimant voluntarily quit on February 9, 2004 after he stopped reporting for work. He has the burden of proving that the voluntary quit was for a good reason that would not disqualify him. Iowa Code Section 96.6-2. The claimant did not participate in the hearing and there is no evidence establishing his voluntary quit was with good cause attributable to the employer. Benefits are denied.

DECISION:

The unemployment insurance decision dated September 20, 2004, reference 04, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount provided he is otherwise eligible. There is no overpayment as a result of this decision.

sdb/kjf