

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

LEWIS C FLOYD  
423 E PHILIP ST #204  
DES MOINES IA 50315-4214

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

TALX UC EXPRESS  
PO BOX 66864  
ST LOUIS MO 63166-6864

Appeal Number: 06A-UI-03185-AT  
OC: 02/05/06 R: 02  
Claimant: Respondent (1)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-j – Voluntary Quit from Temporary Employment

STATEMENT OF THE CASE:

Labor Ready Midwest, Inc., filed a timely appeal from an unemployment insurance decision dated March 6, 2006, reference 02, which allowed benefits to Lewis C. Floyd. After due notice was issued, a telephone hearing was held on April 6, 2006, with Branch Manager John Bruce participating for the employer. Mr. Floyd did not provide a telephone number at which he could be contacted. Exhibit One was admitted into evidence.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Lewis C. Floyd was hired by Labor Ready Midwest, Inc., on June 1, 2005. He last worked on February 3, 2006 on assignment at a business known as Adesa. At the time he was hired Mr. Floyd filled out an application for employment. One paragraph of that application reads as follows:

At the end of the workday, I will be deemed to have quit until I begin working another job assignment. Failure to register my availability for work may effect my eligibility for unemployment compensation. I understand that merely registering my availability to work does not constitute employment, and I am not employed until I actually begin working a job assignment. I understand that after receiving a job assignment, I am free to leave the branch office and do as I wish until the job assignment starts. I understand that I will not be paid for time spent at a Labor Ready branch office after receiving a job assignment or for time commuting to the customer's job site. I understand the importance of never being late for a job assignment.

After working on February 3, 2006, Mr. Floyd did not return to Labor Ready Midwest, Inc.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant's separation from employment at Labor Ready Midwest, Inc., was a disqualifying event. It does not.

Iowa Code Section 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.

This section of the law modifies the provisions of 871 IAC 24.26(19) for those temporary employers who follow its provisions. The general rule, found at 871 IAC 24.26(19), states that each temporary assignment is considered a separate period of employment and that an election not to report for further assignment is not a disqualifying event. With the addition of section 96.5-1-j, a claimant who does not return to a temporary employer within three working days after the end of an assignment is considered to have quit without good cause attributable to the employer, provided the temporary employer has itself complied with the terms of the statute. The statute requires that upon hire an individual be given a separate written notice setting out the requirement that the individual return to the temporary employer within three working days after the end of an assignment. The documentation given to Mr. Floyd is contained in Exhibit One. The document, in particular the language set forth in the Findings of Fact, does not substantially comply with the terms of the statute. Since the employer has not complied with the terms of the statute, Mr. Floyd's failure to return after February 3, 2006 cannot be held against him for unemployment insurance purposes.

#### DECISION:

The unemployment insurance decision dated March 6, 2006, reference 02, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

cs/tjc