

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

WILLIE B JOHNSON
1200 – 3RD AVE SE APT 4
CEDAR RAPIDS IA 52403

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

LABOR READY
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-10511-HT
OC: 08/15/04 R: 03
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, 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)

Section 96.5-1 – Quit

STATEMENT OF THE CASE:

The employer, Labor Ready, filed an appeal from a decision dated September 16, 2004, reference 07. The decision allowed benefits to the claimant, Willie Johnson. After due notice was issued a hearing was held by telephone conference call on October 19, 2004. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Branch Manager James Deromedi. Exhibit One was admitted into the record.

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: Willie Johnson began employment with Labor Ready on December 15, 2003. He signed an application for employment, which stated in part, "I understand that my employment with Labor Ready is on a day-to-day basis. That is, at the end of the work day, I will be deemed to have quit until I report to the dispatch hall and begin working a job assignment."

Mr. Johnson worked only occasionally for Labor Ready, taking a one-day assignment January 15, 2004, and the next time he worked was June 7, 2004. He is still considered an active employee and eligible for assignment whenever he next reports to the office.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is not.

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 was not notified of any requirement to report back to Labor Ready within three days of the end of any assignment as required by Iowa Code chapter 96.5(1)j. He was only notified he was to work on a day-to-day basis and would be considered a voluntary quit at the end of each day. Under the provisions of the above Administrative Code section, Mr. Johnson's election not to report for another assignment is not a disqualifying separation.

DECISION:

The representative's decision of September 16, 2004, reference 07, is affirmed. Willie Johnson is qualified for benefits provided he is otherwise eligible.

bgh/kjf