

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL A MOZEE
Claimant

APPEAL NO. 11A-UI-05682-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PAYROLL TAX DEPT
LABOR READY MIDWEST INC**
Employer

OC: 02/27/11
Claimant: Appellant (2)

Section 96.5-1-j – Seeking Reassignment From Temporary Employer
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated April 12, 2011, reference 02, which denied unemployment insurance benefits finding that the claimant quit employment on February 19, 2011 when he failed to notify the temporary employment firm within three days of the completion of his last work assignment. After due notice, a telephone hearing was held on May 25, 2011. Claimant did participate. Although duly notified, the employer did not participate.

ISSUE:

The issue is whether the claimant's appeal was timely and whether the claimant contacted the temporary employment firm within three working days after the completion of his last work assignment.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Michael Mozee completed a one-day assignment for Labor Ready Midwest on February 19, 2011 and notified the temporary employer the same day of the completion of the assignment and his availability for additional work assignments.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is. The claimant contacted the area claim center and determined that his appeal needed to be filed by April 22, 2011. The claimant personally visited the area claims center and completed filing his appeal that day in person. For reasons that are unclear it appears the appeal was not entered with the Appeals Section until a later date.

For the reasons that follow the administrative law judge concludes the claimant left employment with good cause attributable to the employer.

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.

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 § 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 § 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.

Since there is no evidence in the record that the employer provided the claimant with a written copy of the reporting policy, the claimant's recollection that he did not receive the notice of the reporting policy is credible. The evidence in the record further establishes that Mr. Mozee visited the temporary employment service at the completion of his assignment each day and that the claimant did so at the completion of his assignment on February 19, 2011 and notified the temporary agency employer of his availability for additional assignments.

The purpose of this is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case the employer had notice of the claimant's availability because he personally reported that day to report the assignment had ended and indicated his availability for other work assignments. Benefits are allowed.

DECISION:

The representative's decision dated April 12, 2011, reference 02, is reversed. Claimant's separation from employment was attributable to the employer. Claimant had adequate contact with the temporary employer about his availability as required by the statute. Benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs