

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURIE A VAN WYNGARDEN
Claimant

APPEAL NO: 11A-UI-16133-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

OC: 10/30/11
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(3)a – Refusal of Offer of Work
Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 8, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had voluntarily quit her employment on November 17, 2011, for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. Nancy Mullaney appeared on the employer's behalf.

The issues noted on the hearing notice were for an employment separation. After the hearing started, the issues of whether the claimant refused an offer of work and was able to and available for work as of November 17 also needed to be addressed. The parties waived their right to advance notice so these additional issues could also be addressed in this decision.

Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits as of October 30, 2011.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for reasons that constitute work-connected misconduct?

Was the claimant able to and available for work on November 17, 2011?

Did the employer offer the claimant work on November 14, 2011?

FINDINGS OF FACT:

The claimant registered to work for the employer. The claimant worked one job the employer assigned to her on May 15. She completed this job on June 3. The claimant properly informed the employer she had completed the assignment and regularly called the employer about more work.

The claimant established a claim for a subsequent benefit year during the week of October 30, 2011. On November 14, the employer called the claimant to offer her a job, but the claimant told the employer she had an interview with Maytag Dairy that day. The employer did not offer the claimant a job.

On November 17, the employer talked to the claimant to find out if she was available for work. The claimant was scheduled to tour Maytag Dairy's facilities that day. The claimant assumed the tour of the facility meant she had been hired and would start working that day. The claimant told the employer she was starting a new job that day.

The claimant was not hired at Maytag Dairy. She later contacted the employer to report she was again available to work for them.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The only employment the claimant had with the employer was May 15 through June 3. When the claimant completed the job assignment on June 3 she contacted the employer about another job. The employer did not have another job to assign to her right away. The claimant's employment separation with this employer occurred on June 3, not November 17, 2011.

A claimant is not qualified to receive unemployment insurance benefits if she refuses an offer of suitable work without good cause. Iowa Code § 96.5(3)a. Even though the employer contacted the claimant on November 14 with the intention of offering her job, the employer did not offer the claimant a job after learning she was interviewing for a job that day. When an employer does not make an offer of work, Iowa Code § 96.5(3)a does not apply.

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). If a claimant does not contact a temporary employment firm every week to say she is available for work does not mean the claimant has not met the unemployment insurance eligibility requirements. The law does not require a claimant to contact a temporary employment firm every week. Instead, the law requires a claimant to make a sincere effort to find another job. Contacting an temporary employment firm to report her availability for work may be part of a claimant's effort to become reemployed, but a claimant's failure to contact a temporary employment firm does not mean she is not eligible to receive benefits. The claimant is eligible to receive benefit as of October 30, 2011. She remains eligible to receive benefits as of November 17, 2011. The evidence does not establish that she is not able to or available for work.

DECISION:

The representative's December 8, 2011 determination (reference 01) is reversed. The claimant's employment separation occurred on June 3, 2011, not November 17. On June 3, the claimant completed a job assignment and the employer did not have another job to assign to her. As of June 3, the claimant is qualified to receive benefits based on the reasons for her employment separation. The employer did not offer the claimant a job on November 14. The claimant remains eligible to receive benefits as of November 17, 2011.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css