

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANGELA S SANFORD
Claimant

SEDONA STAFFING INC
Employer

APPEAL 20A-UI-07717-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/13/19
Claimant: Respondent (1)**

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5-1-j – Separation from Temporary Employer
Iowa Code § 96.4-3 – Able and Available for Work
Iowa Code § 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Sedona Staffing (employer) appealed a representative's July 7, 2020, decision (reference 06) that concluded Angela Sanford (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 26, 2020. The claimant participated personally. The employer participated by Colleen McGuinty, Unemployment Insurance Administrator, and Nikki Kiefer, President. The parties waived notice and agreed to hear the issue of whether the claimant refused an offer of suitable work.

The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work, whether the claimant refused suitable work, and/or whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services off and on from March 25, 2019, through March 20, 2020. She signed an online document on July 21, 2020, indicating she was to contact the employer within three working days following the completion of an assignment to request placement in a new assignment. The document did indicate the consequences of a failure to notify the employer. The claimant was given access to an online copy of the document, which was separate from the contract for hire. The claimant completed her last assignment on March 20, 2020, and sought reassignment from the employer on March 24, 2020.

The claimant filed for unemployment insurance benefits with an effective date of October 13, 2019. She filed an additional claim on March 22, 2020. Her weekly benefit amount was determined to be \$288.00. The claimant received benefits of \$288.00 per week from March 22, 2020, to the week ending August 22, 2020. This is a total of \$7,176.00 in state unemployment insurance benefits after the separation from employment. She also received \$10,200.00 in Federal Pandemic Unemployment Compensation for the seventeen-week period ending July 25, 2020.

Based on the claimant's highest quarter of wages during her base period her average weekly wage is \$510.50. On approximately March 25, 2020, the employer talked to the claimant about a forty hours per week job at a rate of pay of \$15.00 per hour or \$600.00 per week. The claimant had to work from home. The claimant told the employer she would think about the position. She realized she did not have a space to work from home with four people in her residence and declined the position on March 27, 2020. This was in her first week of filing for unemployment.

On approximately June 18, 2020, the employer talked to the claimant about a twenty-four hours per week job at a rate of pay of \$15.00 per hour of \$360.00 per week. The claimant told the employer she needed more money and declined the position. This was in her thirteenth week of filing for unemployment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during

absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Under the Iowa Code the employer must advise the claimant of the three-day notice requirement and give the claimant a copy of that requirement. The notice requirement must be separate from the contract for hire. The employer did not provide the claimant with a notice until July 21, 2020. She was separated from her assignment on March 20, 2020, before the notice was issued. The employer has, therefore, failed to satisfy the requirements of Iowa Code Section 96.5-1-j.

The next issue is whether the claimant refused suitable work.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. (1) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

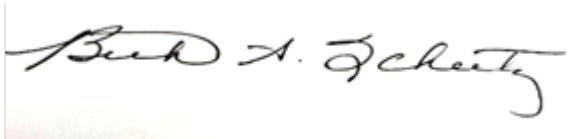
There were two offers of work. The first offer of work was made on March 25, 2020. The work was offered within one week of the claimant's unemployment and was required to provide the claimant wages 100-percent of those paid to the claimant during the highest quarter of her base period or \$510.00. The evidence establishes that the claimant would have received at least 100-percent of her average weekly wages during her highest quarter of earnings.

The claimant refused the work because she did not have a suitable working space in her home to conduct business. The claimant provided an adequate reason for refusing the offer. The work offered to the claimant was not suitable work because she was expected to provide the work location and she could not.

The second offer of work was made on June 18, 2020. The work was offered within thirteen weeks of the claimant's unemployment and was required to provide the claimant wages 75-percent of those paid to the claimant during the highest quarter of her base period. That would be \$383.00. The evidence fails to establish that the claimant would have received at least 75-percent of her average weekly wages during her highest quarter of earnings. Based on the factors found in Iowa Code Section 96.5-3-a, the work offered to the claimant was not suitable work. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The July 7, 2020, (reference 06) unemployment insurance decision is affirmed. The claimant was separated from the employer for good cause attributable to the employer. The claimant did not refuse an offer of suitable work. Benefits are allowed provided the claimant is otherwise eligible.



Beth A. Scheetz
Administrative Law Judge
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August 28, 2020
Decision Dated and Mailed

bas/scn