

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

MARY L SCHERF  
847 KANE ST  
DUBUQUE IA 52001

L A LEASING INC  
SEDONA STAFFING  
612 VALLEY DR  
MOLINE IL 61265

Appeal Number: 04A-UI-03514-CT  
OC: 02/22/02 R: 04  
Claimant: Appellant (2)

**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)I – Temporary Employment

STATEMENT OF THE CASE:

Mary Scherf filed an appeal from a representative's decision dated March 25, 2004, reference 01, which denied use of wage credits earned with Sedona Staffing. After due notice was issued, a hearing was held by telephone on April 20, 2004. Ms. Scherf participated personally. The employer participated by Colleen McGuinty, Unemployment Insurance Administrator, and Nikki Kiefer, Senior Account Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Scherf initially worked for Sedona Staffing beginning in

May of 1998. Her most recent work was in January of 2004 when she was assigned to work for Advance Data-Com. She completed an assignment on January 20, 2004. On January 22, Sedona Staffing contacted her for work but she indicated she wanted a break from working for Advance Data-Com. Ms. Scherf did not respond to messages left for her by the employer on February 3 and April 2, 2004.

Ms. Scherf filed a claim for job insurance benefits effective February 22, 2004. During late February and early March, she was taking Microsoft classes through Iowa Workforce Development as part of the dislocated workers program. She attended classes for two hours in the afternoons.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Scherf was separated from employment for any disqualifying reason. She was hired for placement in temporary work assignments. An individual so employed must complete her last assignment in order to avoid the voluntary quit provisions of the law. See 871 IAC 24.26(19). She would only be required to seek reassignment if notified of the requirements of Iowa Code Section 96.5(1)j. The law provides that a temporary worker must seek reassignment within three working days following the end of an assignment. The administrative law judge need not determine if the employer's notice of this requirement to Ms. Scherf was legally sufficient. The purpose of this legal provision is to allow the temporary agency an opportunity to provide the individual with employment before they seek unemployment benefits. In the case at hand, there was contact between Ms. Scherf and Sedona Staffing on January 22, within three days after her last assignment ended on January 20. Although the contact was not initiated by Ms. Scherf, the purpose for which she was to contact the employer was served, that is, an offer of further work was made. Inasmuch as there was contact between Ms. Scherf and the temporary agency within three working days following the end of the assignment, no disqualification is imposed under Section 96.5(1)j.

It is true that Ms. Scherf declined available work on January 22, 2004. However, she did not have a valid claim for benefits in effect at the time of the refusal. Therefore, Workforce Development has no jurisdiction over the work refusal. See 871 IAC 24.24(8). Although the employer attempted to contact Ms. Scherf on February 3 and again on April 2, there were no work offers made on those occasions as the employer's calls were not returned.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Ms. Scherf was separated from employment for no disqualifying reason.

#### DECISION:

The representative's decision dated March 25, 2004, reference 01, is hereby reversed. Ms. Scherf was separated from Sedona Staffing for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/b