

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY L CLARK
Claimant

APPEAL NO. 08A-UI-03925-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 02/17/08 R: 04
Claimant: Appellant (1)**

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 22, 2008, reference 02, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 7, 2008. Claimant participated. Employer participated through Abby Schueller and Colleen McGuinty.

ISSUE:

The issue is whether claimant refused a suitable offer of work and if so, whether the refusal was for a good cause reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant on March 14, 2008. That offer included the following terms: two to three weeks beginning March 17, first shift full time at \$7.50 per hour at an assignment in Maquoketa where she had worked before. She accepted the assignment, missed the first day due to reported car trouble and did not report thereafter. Employer again offered and she accepted the same assignment to start March 25. Claimant was a no call-no show for the week. On March 28 employer offered her an assignment to begin April 1 for full time inventory at \$8.00 per hour. She accepted, called in sick the first day and did not report thereafter. On April 11 claimant contacted employer and said she was returning to school and could not work full time. When confronted about the no call-no show absences, claimant acknowledged they were related to depression but had never requested accommodation or provided medical information to assist employer in finding appropriate assignments. Nor had she ever told employer she no longer wanted to work at the Maquoketa assignment because of coworker rudeness. At hearing claimant said her absences and failure to communicate with employer were related to depression but no documentation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of work.

Iowa Code § 96.5-3-a provides:

An individual shall be disqualified for benefits:

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. 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:

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

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

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

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

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

The offer was suitable as it met the statutory wage requirements and conformed to her earlier work history with the employer. Claimant did not have a good cause reason for the refusals as she failed to present any medical restrictions or otherwise communicate with employer about her concerns, medical issues (as they related to the assignments) or failure to report as agreed. Benefits are denied.

DECISION:

The April 22, 2008, reference 02, decision is affirmed. Claimant did refuse suitable offers of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs