

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIM J SIMON
Claimant

APPEAL NO. 11A-UI-02508-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 11/07/10
Claimant: Respondent (2)**

Section 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Sedona Staffing (employer) appealed a representative's February 14, 2011 decision (reference 02) that concluded Tim Simon (claimant) eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 28, 2011. The claimant did provide a telephone number for the hearing but did not answer his telephone. The administrative law judge left a message but the claimant did not return the call and, therefore, did not participate. The employer participated by Colleen McGuinty, Hearings Representative, and Carrie Cannon, Team Lead.

ISSUE:

The issue is whether the claimant refused suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 12, 2003 as a temporary worker. When the claimant registered with the employer he indicated he could work first or second shift.

On December 29, 2009, the employer offered the claimant a full-time job with Quad Graphics working second shift. The hourly rate of pay was \$8.34 for 40 hours per week. In addition the job paid time and one-half for mandatory overtime. The claimant would have earned in excess of \$410.00 per week. The job did not require any particular skill. The claimant refused the offer of work because it interfered with his schedule and time with daughter.

The claimant filed a new claim for unemployment insurance benefits with an effective date of November 7, 2010. The claimant's average weekly wage during his highest quarter of wages was \$409.13.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for work. For the following reasons the administrative law judge concludes he was not. Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4).

871 IAC 24.23(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

When an employee is not willing to work during hours of suitable employment, he is considered to be unavailable for work. The claimant was devoting time to his daughter and did not want work to interfere with his schedule. He is considered to be unavailable for work as of December 29, 2010. The claimant is disqualified from receiving unemployment insurance benefits beginning December 29, 2010, due to his unavailability for work.

DECISION:

The representative's February 14, 2011 decision (reference 02) is reversed. The claimant is disqualified from receiving unemployment insurance benefits as of December 29, 2010, because he was not available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css