

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER JASPER
Claimant

APPEAL NO: 14A-UI-01750-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 09/22/14
Claimant: Respondent (1-R)

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 6, 2014, reference 04, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 2, 2014. The claimant did not respond to the hearing notice by providing a phone number where she could be reached at the date and time of the hearing as evidenced by the absence of her name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The claimant did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Colleen McGuinty, Benefits Administrator and Nikki Kiefer, President, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired by Sedona Staffing September 16, 2013, and her last assignment was with Quanex Building Products as a general laborer from October 21, 2013 through January 16, 2014. That assignment was completed when the client notified the employer it no longer required the claimant's services and the employer informed the claimant. There is no allegation of misconduct or that the claimant quit her job.

The employer appealed the issue of whether the claimant sought further assignment from the employer as required by the employer's policy. There has been no fact-finding determination made on that issue. Consequently, the parties did not receive notice of that issue as a potential topic of the appeal hearing. Because the claimant did not participate in the appeal hearing, the administrative law judge could not ask the parties to waive notice on whether the claimant failed

to seek further assignment from the employer and that issue must be remanded to the Claims Section for an initial determination and adjudication.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not employed at the same hours and wages as contemplated in the original contract of hire but the issue of whether the claimant sought reassignment from the employer has not been adjudicated by the Claims Section.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant is not employed at the same hours and wages as contemplated in her original contract of hire as she has completed her assignment with the employer and is no longer working in that capacity. Benefits are allowed, provided the claimant is otherwise eligible.

The issue of whether the claimant sought reassignment from the employer is remanded to the Claims Section for an initial determination and adjudication.

DECISION:

The February 6, 2014, reference 04, decision is affirmed. The claimant is not employed at the same hours and wages. The issue of whether the claimant sought reassignment from the employer is remanded to the Claims Section for an initial determination and adjudication.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs