

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

LAUREN N LEROY  
3836 EAGLE HEIGHTS DR  
CLINTON IA 52732

LA LEASING INC  
DBA SEDONA STAFFING  
612 VALLEY DR  
MOLINE IL 61265

Appeal Number:

OC: 03-14-04

Claimant: Appellant (1)

NUNC PRO TUNC

04A-UI-05697-AT

R: 04

**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 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Lauren N. LeRoy filed a timely appeal from an unemployment insurance decision dated May 14, 2004, reference 02, which disqualified her for benefits effective May 28, 2004 upon a finding that she refused to accept suitable work with LA Leasing, Inc., doing business as Sedona Staffing. After due notice was issued, a telephone hearing was held June 8, 2004 with Ms. LeRoy participating. Unemployment Insurance Benefits Administrator Colleen McGuinty and Account Manager Jackie Wilsles participated for Sedona Staffing.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Lauren N. LeRoy opened an unemployment insurance benefit year on March 14, 2004. During the seventh week of her unemployment insurance claim, Ms. LeRoy refused an offer of work from Sedona Staffing, a long-term assignment at Skyline Center in Clinton, Iowa, working in the assembly and packing department, earning \$6.00 per hour for a forty-hour week Monday through Friday from 7:30 a.m. until 4:30 p.m. Ms. LeRoy declined the offer because she wanted clerical work. From December 1, 2003 through February 17, 2004 Ms. LeRoy had worked in packing on another assignment for Sedona Staffing. Her only other base period employment was in retail.

The position offered by Sedona Staffing paid \$240.00 per week. Ms. LeRoy's average weekly wage in the highest quarter of her base period was \$171.92.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. LeRoy refused a suitable offer of work. It does.

Iowa Code Section 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 evidence in the record establishes that the employer's offer easily met the first test of suitability. While the law required only that the wage equal or exceed 75 percent of the claimant's average weekly wage since it was made in the eighth week of unemployment, the offer exceeded 100 percent of the average weekly wage.

The offer meets the second test because it is work consistent with that which Ms. LeRoy had done for this employer. The only other base period wages were for retail work. The claimant may have desired a clerical position rather than an industrial or retail position, but her subjective desire does not constitute a good reason for refusing similar work which paid a higher wage than she had been earning in the past. Benefits are withheld.

#### DECISION:

The unemployment insurance decision dated May 14, 2004, reference 02, is affirmed. Benefits are withheld effective April 25, 2004 until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

tjc/tjc