

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMY L AIRD
Claimant

APPEAL NO. 13A-UI-10703-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 07/07/13
Claimant: Respondent (1)**

Iowa Code Section 96.5(3)(a) – Refusal of Suitable Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 5, 2013, reference 07, decision that allowed benefits based on an agency conclusion that work offered on July 23, 2013 was not suitable work because circumstances related to the claimant's previous separation still existed. After due notice was issued, a hearing was held on October 14, 2013. Claimant Amy Aird did not respond to the hearing notice and did not participate. Colleen McGuinty represented the employer and presented additional testimony through Joe Vermeulen. The administrative law judge took official notice of the agency's administrative record (DBRO) of benefits disbursed to the claimant and the week for which the claimant had an active claim for benefits. Exhibits One and Two were received into evidence. The hearing in this matter was consolidated with the hearing in Appeal Number 13A-UI-10704-JTT

ISSUE:

Whether the claimant refused an offer of suitable work without good cause on or about July 23, 2013.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Amy Aird established a claim for benefits that was effective July 7, 2013, but has received no benefits in connection with the claim. Ms. Aird's claim for benefits was active during the four-week period of July 7, 2013 through August 3, 2013. Ms. Aird then discontinued her claim. Ms. Aird's average weekly wage for her highest earning base period quarter is \$388.46.

Ms. Aird has performed work for L.A. Leasing/Sedona Staffing in multiple temporary work assignments. The employer is a temporary employment agency. On July 15, 2013, Sedona Staffing representative left a voice mail message for Ms. Aird about a possible assignment. Ms. Aird did not respond to the message until July 22, 2013. On that day, Ms. Aird told a Sedona representative that she was available for work at Nordstrom. On July 23, 2013,

Ms. Aird again called Sedona and spoke to Nikki Kiefer, President. Ms. Aird again stated that she was available for work at Nordstrom.

Later that same day, Ms. Aird stopped at the Sedona Staffing office in Peosta and spoke with Joe Vermeulen, Branch Manager. Ms. Aird lives in Peosta. At that time, Mr. Vermeulen spoke to Ms. Aird about two proposed job assignments. One proposed assignment was a full-time, second shift, machine operator assignment at Premier Tooling. The assignment would pay \$10.50 per hour. The assignment was to start on July 24, 2013. Ms. Aird had previously performed work in an assignment and could not successfully do the lifting required in the assignment. Ms. Aird declined the assignment and cited the lifting requirement as the basis for refusing the assignment.

The second proposed assignment Ms. Vermeulen discussed with Ms. Aird on July 23, 2013 was a full-time, first-shift, Extrusion Operator, assignment at Schieffer. The assignment was to start on July 24, 2013 and would pay \$10.00 per hour. Ms. Aird told Mr. Vermeulen that she had previously worked for Schieffer on her own and was not interested in returning. Mr. Vermeulen checked with Schieffer and learned that Ms. Aird was eligible to return to work for Schieffer.

It is refusal of the offer of an assignment at Premier Tooling that is at issue in this case.

REASONING AND CONCLUSIONS OF LAW:

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 weight of the evidence indicates that Ms. Aird refused an offer of an unsuitable work assignment at Premier Tooling on July 23, 2013, at a time when she had an active claim for benefits. Ms. Aird had good cause for refusing the work due to her difficulty in meeting the physical demands of a previous assignment at Premier Tools. The refusal of the assignment at Premier Tools would not disqualify Ms. Aird for unemployment insurance benefits. Ms. Aird remains eligible for benefits provided she is otherwise eligible.

DECISION:

The Agency representative's August 5, 2013, reference 07, is affirmed. The claimant refused an offer of unsuitable employment with good cause on July 23, 2013. The refusal of the assignment at Premier Tools would not disqualify the claimant for unemployment insurance benefits. The claimant remains eligible for benefits, provided she is otherwise eligible.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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