

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHIRLEY R SMITH
Claimant

APPEAL NO. 15A-UI-13806-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 10/18/15
Claimant: Appellant (1)

Section 96.5(3)a – Offer of Suitable Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated December 11, 2015 (reference 02) which denied unemployment insurance benefits, finding that the claimant refused a recall to suitable work with L A Leasing, Inc. on November 14, 2015. After due notice was provided, a telephone hearing was held on January 7, 2016. The claimant participated. The employer participated by Mr. Chad Baker, Workmen Compensation Administrator, and Ms. Cory Thompson, Account Manager.

ISSUE:

At issue is whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Shirley Smith began employment with the captioned temporary employment service on June 17, 2013. Ms. Smith most recently accepted a job assignment from Sedona Staffing on November 11, 2015. On that date, the claimant was offered and accepted a one-day work assignment; as a light concession worker for the Airmark Company at Kinnick Stadium. Ms. Smith was to begin the assignment at 4:00 p.m. on November 14, 2015. The claimant was given directions to the work location and instructed to go "Gate I" to meet a Sedona representative who would direct her to the concession location where she was assigned to work. Although the claimant had agreed to report, she did not do so.

Ms. Smith, it appears, had some difficulty in determining which bus would take her near Kinnick Stadium and arrived at the stadium a few minutes past 4:00 p.m. on Saturday, November 14, 2015. Ms. Smith elected not to go to "Gate I" as directed and instead chose not to report because she was dissatisfied and frustrated because she had arrived a few minutes late. The claimant spoke to the employer the following Monday, stating the reason that she had not reported to the assignment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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".

Iowa Code § 96.5-3-b 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.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

In the case at hand, the evidence in the record establishes that Ms. Smith verbally accepted the offer of suitable work made to her by Sedona Staffing on November 11, 2015. However, the claimant did not fulfill her acceptance of the assignment by reporting to work as directed on November 14, 2015. Although Ms. Smith arrived at the work location at Kinnick Stadium a few minutes late, she elected not to report to the specific gate to begin her temporary employment that day. Instead she chose to leave and not accept the assignment due to issues not directly related to the employment itself. Ms. Smith was upset because it had taken her longer to arrive

at the stadium than she had anticipated. Because work continued to be available to the claimant on that day and the work was suitable, the administrative law judge concludes that the claimant refused the offer of suitable work without good cause. Accordingly, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount; and she is otherwise eligible.

DECISION:

The representative's decision dated December 11, 2015 (reference 02) is affirmed. The claimant refused an offer of suitable work on November 14, 2015. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit, and she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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