

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GINGER WELCH
Claimant

APPEAL NO: 09A-UI-17279-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMPS NOW HEARTLAND LLC
Employer

OC: 09-27-09
Claimant: Respondent (1)

Section 96.4-3 – Able and Available
Section 96.5-3-a – Work Refusal
871 IAC – 24.24(8) – Valid Claim for Benefits

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 4, 2009, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 23, 2009. The claimant participated in the hearing. Shae Munson, Senior Recruiter and Cary Miller, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant refused a suitable offer of work when she had a valid unemployment insurance claim and whether she is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits effective September 27, 2009. The employer made an offer of work to the claimant April 9, 2009. The claimant did not have a valid claim for unemployment insurance benefits at the time the offer was made. Additionally, even if the claimant had a valid claim for benefits at the time of the offer, she is not required to report for a new job upon the completion of another when she is a temporary worker. She fulfilled the contract of hire when her assignment was completed. She suffered some medical issues but is able and available for work effective September 27, 2009.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant did not refuse a suitable offer of work, did not have a valid claim for benefits and is able to work and available for work.

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa Code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

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 did not have a valid claim for benefits at the time the offer of work was made. She is able and available for work effective September 27, 2009. Accordingly, benefits are allowed.

DECISION:

The November 4, 2009, reference 01, decision is affirmed. The claimant did not have a valid claim for benefits at the time the offer of work was made. She is able and available for work effective September 27, 2009. Benefits are allowed.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css