

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHEILA J WHEELER
Claimant

APPEAL NO: 07A-UI-10653-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TLC STAFFING INC
Employer

**OC: 08/19/07 R: 03
Claimant: Appellant (4)**

Section 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

Sheila J. Wheeler (claimant) appealed a representative's November 9, 2007 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits as of September 23, 2007, because she refused work that TLC Staffing, Inc. (employer) offered her. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 4, 2007. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Kurt Lemkuhl, the president, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was the claimant able to and available for work as of September 21, 2007?

Did the claimant refuse an offer of suitable work without good cause?

FINDINGS OF FACT:

The claimant registered to work with the employer on September 14, 2007. The employer provides nursing staff to various facilities. After the claimant applied to work for the employer, the employer gave her assignments for September 16 through 23. The claimant accepted all the assignments. The claimant worked as scheduled on September 16. The claimant called off work at this facility the next two days. As a result of the claimant calling off and failing to provide adequate notice that she was unable to work, the facility did not want the claimant assigned to work for them again.

The claimant had also accepted a September 21 assignment at a Dysart facility. This job was about 50 miles from the claimant's residence. The claimant called off on the September 21 assignment, but did not provide adequate notice that she was unable to work. The claimant indicated she did not have gas to get to the job. The Dysart facility did not want the claimant assigned to work for them again.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she refuses an offer of suitable work without good cause. Iowa Code section 96.5-3-a. Before a claimant can be disqualified for refusing an offer of suitable work, she must be able to and available for work. Iowa Code section 96.4-3, 871 IAC 24.24(4). The facts establish that as of September 17, the claimant was not available for work for various reasons. The most recent reason was because she did not have gas to get to the job. Based on the evidence presented during the hearing, the claimant is not eligible to receive benefits as of September 16 because she did not establish that she was able to and available for work.

DECISION:

The representative's November 9, 2007 decision (reference 03) is modified in the claimant's favor. The claimant is not disqualified from receiving benefits for refusing an offer of work. The claimant is, however, not eligible to receive benefits as of September 16, 2007, because the facts do not establish she is able to and available for work as of this date.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs