

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARA M VELTHOFF
Claimant

APPEAL NO. 08A-UI-00705-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 11/11/07 R: 04
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available for Work
Section 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated January 17, 2008, reference 03, which held the claimant ineligible to receive unemployment insurance benefits because she refused to accept an offer of suitable work. After due notice, a telephone conference hearing was scheduled for and held on February 6, 2008. The claimant participated personally. The employer participated by Colleen McGuinty, Company UI Benefit Administrator and witness Beth Gunnell, Account Manager.

ISSUES:

The issues in this matter are whether the claimant is able and available for work and whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant had accepted temporary assignments with the temporary staffing company in the past. Her most recent assignment had come to a conclusion on December 31, 2007 when Ms. Velthoff had completed the assignment. On January 4, 2008, the claimant was offered two potential work assignments by Sedona Staffing. The first offer was for a temporary position working the first shift in a bindery company at the rate of \$7.50 per hour. Ms. Velthoff was unable to accept that assignment because she was attending temporary unpaid training offered by Sedona Staffing to enable the claimant to accept further assignments in the tax field that Sedona Staffing would soon be offering. Ms. Velthoff did not accept a second assignment offer that day offering second-shift work at the rate of \$7.75 per hour as a hand packer for P & G because the claimant had previously accepted an assignment with that client and found the work location to be extremely unorganized and the claimant had difficulty receiving her pay from that assignment.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant has established good cause for failing to accept the two assignments offered by Sedona Staffing on January 4, 2008. During this time the claimant was able and available for work and was actively attempting to find employment by personally contacting perspective employers. On January 4, 2008, the claimant was offered two assignments. The first assignment was for first-shift work and the one-day assignment conflicted with uncompensated training that the claimant was receiving through Sedona Staffing to enable Ms. Velthoff to later accept longer term assignments in the tax field. The administrative law judge finds the claimant's reasoning to be well founded and good cause for failing to accept this assignment has been established.

The claimant refused the second assignment offer which offered second-shift work as a hand packer with the Proctor and Gamble Company because she had a previous negative experience with a temporary assignment with this client. The claimant had indicated to Sedona Staffing that she had had difficulty in obtaining her pay and had further complained that the job location was extremely disorganized and that she felt that she had been treated in a rude manner. The administrative law judge finds good cause for failure to accept this assignment has also been established by the claimant based upon her previous experience with this client employer and the difficulties she experienced in receiving her pay.

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".

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.

For the reasons stated herein the administrative law judge concludes that the claimant is able and available for work within the meaning of the Iowa Employment Security Act and that she has established good cause for failing to accept the work assignments offered by Sedona Staffing to her on January 4, 2008.

DECISION:

The representative's decision dated January 17, 2008, reference 03, is hereby reversed. The claimant is able and available for work and has established good cause for refusing an offer of work. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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