

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA E JAMES
Claimant

APPEAL NO. 10A-UI-10020-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

OC: 12/27/09
Claimant: Respondent (1)

871 IAC 24.26(19) – Completion of Temporary Work Assignment
Section 96.5-3-a - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 8, 2010, reference 01, that concluded the claimant completed her temporary work assignment. A telephone hearing was held on August 31, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Nancy Mullaney participated in the hearing on behalf of the employer. The parties agreed that the issue of whether the claimant failed to accept an offer of suitable work without good cause could be considered and decided.

ISSUES:

Did the claimant complete her temporary work assignment?

Did the claimant fail to accept an offer of suitable work without good cause?

Did the claimant quit employment to accept another job?

FINDINGS OF FACT:

The claimant worked for the employer on an assignment at Victor Manufacturing from January 14 to May 7, 2010, which is about 11 miles from her home. She completed the assignment but there was no immediate work available.

On May 13, 2010, the employer offered the claimant another work assignment at Montezuma Manufacturing in Montezuma, which is about 41 miles from her home. The full-time job paid \$14.00 per hour (the same as Victor Manufacturing), and was a third shift (11:30 p.m. to 7:30 a.m.) position. The claimant declined the job due to the commuting distance to the job. She had stated when she applied for work with the employer that the furthest she would commute was 20 miles.

The claimant notified the employer on May 18, 2010, that she had found another job and was not interested in obtaining work from the employer any longer. She starting working in that job on May 25.

The claimant had originally filed for unemployment insurance benefits effective December 27, 2009. She filed an additional claim effective May 9, 2010, after she stopped working for the employer.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. On the other hand, a claimant who completes a temporary work assignment is qualified for benefits. 871 IAC 24.26(19). The claimant was eligible for benefits effective May 9, 2010.

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

Iowa Code § 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....

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.

The claimant is not disqualified based on her declining the work offered on May 13, 2010, because the commuting distance made the job not suitable and gave the claimant good cause to decline the work.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account will not be chargeable for benefits paid to the claimant since she voluntarily left employment to take another job on May 18, 2010. See Iowa Code § 96.5-1-a.

DECISION:

The unemployment insurance decision dated July 8, 2010, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css