

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANE M WEBB**  
Claimant

**APPEAL NO. 07A-UI-01762-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 01/07/07 R: 04  
Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work  
Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Team Staffing Solutions, Inc. (TSS) filed an appeal from a representative's decision dated February 8, 2007, reference 02, which held that no disqualification would be imposed regarding Shane Webb's January 2, 2007 refusal of work. After due notice was issued, a hearing was held by telephone on March 7, 2007. Mr. Webb participated personally. The employer participated by Sarah Fiedler, Administrative Assistant.

**ISSUE:**

At issue in this matter is whether Mr. Webb refused an offer of suitable work without good cause.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Webb began working for TSS on June 5, 2006 and was assigned to work full-time for Communication Data Services (CDS). He was removed from the assignment on November 27 so he could be placed on a light-duty assignment. He worked full-time for a different client company, PCO, until released by his doctor to full duty on December 12. After his release, CDS decided it did not want Mr. Webb to return because of his attendance.

With the exception of November 18, all of Mr. Webb's absences were due to illness and were properly reported to CDS. He properly reported the intent to be absent on November 18 because of his daughter's birthday. He did not always report his absences to TSS as required. He was never told that he was in danger of losing his job because of his failure to notify TSS of his absences. Although Mr. Webb was told he needed to improve his attendance, he had not been advised that he was in danger of losing his assignment due to his absences. He was in contact with TSS regarding further work within three working days of being notified of the end of his assignment with CDS.

On January 3, 2007, TSS offered Mr. Webb a full-time assignment with West Liberty Foods. He declined the work because it involved working with knives and he does not feel qualified to handle a knife. Mr. Webb filed a claim for job insurance benefits effective January 7, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Webb was separated from his assignment with CDS because the client company requested his removal due to his unsatisfactory attendance. An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. Mr. Webb had only one unexcused absence, that of November 18 when he was absent due to his daughter's birthday party. Absences due to purely personal matters are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Mr. Webb's one unexcused absence is not sufficient to establish a substantial and intentional disregard of the employer's standards. Inasmuch as the employer failed to establish excessive unexcused absenteeism, the separation was not a disqualifying event.

The employer offered Mr. Webb work on January 3, 2007. An individual who refuses an offer of suitable work without good cause is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. However, Workforce Development has no jurisdiction over work refusals that occur prior to the individual filing a claim for job insurance benefits. 871 IAC 24.24(8). Mr. Webb's claim was filed effective January 7, 2007, after the work refusal. Because he did not have a valid claim for job insurance benefits in effect at the time the work was refused, no disqualification may be imposed for the refusal.

**DECISION:**

The representative's decision dated February 8, 2007, reference 02, is hereby affirmed. No disqualification is imposed for Mr. Webb's January 3, 2007 refusal of work with TSS as he did not have a valid claim for benefits in effect at the time. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css