

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHANIE I WHITE**

Claimant

**APPEAL NO. 08A-UI-09419-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES INC**

Employer

**OC: 11/11/07 R: 02  
Claimant: Appellant (2)**

871 IAC 24.1(113)a – Layoff  
Section 96.5-3-a – Failure to Accept Suitable Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 6, 2008, reference 02, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 30, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Amy McGregor participated in the hearing on behalf of the employer with a witness, Ashley Leydens.

**ISSUES:**

Was the claimant laid off due to lack of work?  
Did the claimant contact the employer about reemployment after completing a job assignment?  
Did the claimant fail to accept an offer of suitable work without good cause?  
Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, she signed a statement that she would be considered to have voluntarily quit employment if she did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked full time for the employer on an assignment at CTI company from May 5, 2008, to June 28, 2008. During the week of June 22, CTI informed the employees, including the claimant, that the business would be closed for two weeks after June 28.

On June 26, the claimant stopped by the employer's office to pick up her paycheck. She informed the employee that she spoke to about the fact that CTI was shutting down and asked for another assignment. The claimant also contacted the employer at the beginning of the week of June 30 that she was available for another job assignment. She called periodically afterward but was not offered work until July 14, 2008.

On July 14, a staffing specialist informed the claimant that there was a position at Edward Graphic Arts in Des Moines available that day. The claimant told the staffing specialist that she let someone borrow her car that day and did not have a way to get to the job. The staffing specialist said okay and did not describe the position further.

The job at Edward Graphic Arts involved bindery work. It was a full time job and paid \$10.00 per hour, which is comparable to the going rate of pay for similar work in the Des Moines area.

The claimant was only without transportation on July 14, 2008.

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:**

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements. The preponderance of the evidence establishes the claimant contacted the employer within three days after the end of the assignment with CTI. She did not quit employment and was not discharged for work-connected misconduct. She was laid off due to lack of work as defined in 871 IAC 24.1(113)a on June 28.

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. 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:

The rules require that the claimant receive a bona fide offer of work before any disqualification can be imposed. 871 IAC 24.24(1)a. That offer would include notification of the all the essential terms and conditions of the employment, including the rate of pay and number of hours of work. No such detailed offer was made in this case. The claimant is not subject to disqualification under Iowa Code § 96.5-3-a.

The final issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. As the rules require a claimant be available to work for a majority of the work week (871 IAC 24.22(2)h), the claimant was available for work during the week of July 14 even though she lacked transportation on one day.

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 may be chargeable for benefits paid to the claimant based on this separation from employment.

**DECISION:**

The unemployment insurance decision dated October 6, 2008, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css