

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBIN J LEWIS
Claimant

APPEAL NO. 07A-UI-09022-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

OC: 09/09/07 R: 04
Claimant: Respondent (1)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

Temp Associates filed an appeal from a representative's decision dated September 19, 2007, reference 03, which held that no disqualification would be imposed regarding Robin Lewis' September 17, 2006 refusal of work. After due notice was issued, a hearing was held by telephone on October 8, 2007. Ms. Lewis participated personally. The employer participated by Deborah Perdue, Branch Manager.

ISSUE:

At issue in this matter is whether any disqualification should be imposed regarding Ms. Lewis' refusal of work with Temp Associates.

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: Ms. Lewis began working through Temp Associates, a temporary placement service, in September of 2002. Her last assignment was with Millard Refrigerated Services, where she began on September 6, 2006. She was removed from the assignment on September 14, 2006 because the client company did not feel she was a good fit for the job. On September 14, Temp Associates offered her a new assignment with Metrogroup East. She declined the work because she did not want to work third shift. Ms. Lewis did not

have a claim for job insurance benefits on file at the time of the refusal as her claim filed effective August 14, 2005 expired August 13, 2006.

Ms. Lewis reactivated her status with Temp Associates on August 27, 2007. She was again offered production work with Metrogroup East to start on August 28. The work offered on this occasion was for 40 hours each week during the second shift and paid \$8.75 per hour. Ms. Lewis initially accepted the work but called later and declined it. She notified Temp Associates that she no longer wanted to perform production work. She filed a claim for job insurance benefits effective September 9, 2007.

Ms. Lewis' family has only one vehicle available to them. She takes her children, ages 19 and 25, to classes beginning at approximately 3:00 p.m. each day. She is currently seeking work as a cook, front desk clerk, receptionist, and in data entry. She is available to work daily from 6:00 a.m. until approximately 2:30 p.m.

REASONING AND CONCLUSIONS OF LAW:

The primary issue is whether any disqualification should be imposed as a result of Ms. Lewis refusing work with Temp Associates on September 14, 2006 and August 28, 2007. An individual who refuses an offer of suitable work without good cause is disqualified from receiving benefits. Iowa Code section 96.5(3)a. However, Workforce Development has no authority to disqualify an individual unless the work is offered and refused during a time the individual has a valid claim for job insurance benefits in effect. See 871 IAC 24.24(8).

When Ms. Lewis refused work on September 14, 2006, her old claim had expired in August and she had not filed a new claim. The refusal on August 28, 2007 was prior to her filing her current claim effective September 9, 2007. Because Ms. Lewis did not have a claim in effect at the time of either refusal, Workforce Development lacks jurisdiction to impose a disqualification based on the refusals.

Ms. Lewis continues to be available for work. Although she takes her children to school in the afternoons, she remains available to work the bulk of the day. There are any number of jobs that can be performed between 6:00 a.m. and 2:30 p.m. Jobs that Ms. Lewis is seeking, such as front desk clerk or cook, can be performed around the clock. There are restaurants, hotels, and motels that are open at all hours. There are also convenience store clerk positions that are

available around the clock. Although Ms. Lewis' availability may be somewhat limited, there are still a substantial number of jobs that she could perform during the hours she is available. For the above reasons, the administrative law judge concludes that she is available for work within the meaning of Iowa Code section 96.4(3).

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that there is no basis on which to disqualify Ms. Lewis from receiving benefits on her claim filed effective September 9, 2007.

DECISION:

The representative's decision dated September 19, 2007, reference 03, is hereby affirmed. No disqualification is imposed for Ms. Lewis September 14, 2006 and August 28, 2007 refusals of work as she did not have a valid claim in effect at either time. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

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