

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMANTHA K DECHANT
Claimant

APPEAL NO. 07A-UI-11118-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

OC: 10/28/07 R: 03
Claimant: Respondent (1)

Section 96.5-1-j – Separation from Temporary Employer
Section 96.5-3-a – Failure to Accept Suitable Work
Section 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated November 27, 2007, reference 02, that concluded she was eligible for benefits based on her separation from a temporary job. A telephone hearing was held on December 18, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Stephanie Matteson participated in the hearing on behalf of the employer.

ISSUE:

Is the claimant disqualified from receiving benefits based on her separation from temporary employment with the employer?

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 for the employer from June 12, 2006, to October 17, 2007. Her last assignment was working at Nelson Manufacturing. After work on October 17, Darlene Hughes, an account manager with the employer, contacted the claimant and informed her that her assignment was ending. Hughes informed the claimant that she would be active in the employer's system for future opening and would be contacted when suitable work was available.

The claimant filed a new claim for unemployment insurance benefits with an effective date of October 28, 2007. Her average weekly wage during the highest quarter of earnings in her base period was \$259.69.

The claimant attended school while she worked at Nelson Manufacturing and her school schedule was accommodated. On November 5, at about 11:00 a.m., Hughes called the claimant about two jobs. She asked the claimant if she had classes that afternoon, because one of the jobs was to start at 1:00 p.m. that day. When the claimant said she had class that afternoon, Hughes did not provide any other information about the job.

Hughes then offered the claimant a three-day assignment working concessions at the State High School volleyball tournament in Cedar Rapids. The job paid \$8.00 per hour for 24 hours of work for the week. The claimant was informed that in order to accept the job, she would need to have or buy some tan pants. The claimant told Hughes she did not have tan pants and did not have the money to buy the pants because she had not been paid for her vacation hours that she had requested.

The claimant's school schedule is Monday (10:30–5:30 p.m.), Wednesday (10:30–9:00 p.m.), and Friday afternoons (10:30–3:00 p.m.). The claimant is available to work outside this class schedule. She was able to secure a job that accommodates her school schedule during the week of December 18.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 claimant is not subject to disqualification under this statute, because when she was informed that her temporary assignment was ending, she was told that she would be called when suitable work was available. This contact satisfies the requirements of Iowa Code section 96.5-1-j.

The next 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 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....

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.

The claimant was only offered on job on November 5, 2007. This was the temporary job working concessions at the volleyball tournament. I conclude the job was not suitable, since the weekly wage for the job was less than her average weekly wage during her highest quarter of wages in her base period. Additionally, the claimant had good cause to turn down the job because she did not have the money to purchase tan pants.

The 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 section 96.4-3. The evidence establishes the claimant that she was available for work to the same extent as during the time she worked for the employer. She had no substantial restrictions on her availability for work.

DECISION:

The unemployment insurance decision dated November 27, 2007, reference 02, 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/kjw