

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

LORI S DOTY
2015 SCHLEY AVE
MUSCATINE IA 52761

TEAM STAFFING SOLUTIONS INC
116 HARRISON ST
MUSCATINE IA 52761

Appeal Number: 04A-UI-04312-DWT
OC 03/07/04 R 04
Claimant: Respondent (1/R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1-d – Employment Upon Recovering from an Illness

STATEMENT OF THE CASE:

Team Staffing Solutions, Inc. (employer) appealed a representative's April 5, 2004 decision (reference 02) that concluded Lori S. Doty (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the employer did not have any work for her to do after she recovered from a weeklong medical condition. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 13, 2004. The claimant participated in the hearing. Wendy Clang, a claims specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant qualified to receive unemployment insurance benefits under Iowa Code §96.5-1-d?

FINDINGS OF FACT:

The claimant registered to work for the employer's clients on September 22, 2003. On March 2, 2004, the claimant informed the employer she was ill and unable to work for a while. The claimant's doctor released her to return to work on March 8, 2004. The claimant contacted the employer on March 8 about a job, but the employer did not have any job available to assign to her.

The employer contacted the claimant on March 24 about a job on first shift. The claimant had not made arrangement for a first-shift babysitter because she had been working second shift. Within 24 hours the claimant made the necessary arrangements for a first-shift babysitter. When the claimant contacted the employer to accept the first shift offer of work, the employer did not have the job available any longer because another person accepted the assignment.

REASONING AND CONCLUSIONS OF LAW:

When a claimant leaves employment upon the advice of a physician because of a medical condition, immediately notifies the employer about the necessity of leaving, and offers to return to work after being released to work by a physician is not disqualified from receiving benefits if the employer has no work available for the claimant to do. Iowa Code §96.5-1-d. The claimant's situation is an example of this law. When the claimant was released to return to work on March 8, the employer did not have any work available for her to do. Based on Iowa Code §96.5-1-d, the claimant is qualified to receive unemployment insurance benefits as of March 7, 2004.

An issue of why the claimant was unable to start a job on March 30 was brought up during the hearing. Since this was not an issue that was addressed in the representative's April 5 decision, the issue of whether the claimant was able to and available for work, whether she declined an offer of suitable work or whether another employment separation occurred on or about March 30, 2004, in relation to a pre-employment drug test is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's April 5, 2004 decision (reference 02) is affirmed. The claimant is qualified to receive unemployment insurance benefits as of March 7, 2004 because after she recovered from a medical condition and had been released to work by her physician, the employer did not have any work available when the claimant offered to return to work. As of March 7, 2004, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant. This case is remanded to the Claims Section to investigate and issue a decision concerning a pre-employment drug test that occurred on April 30, 2004 and how it may affect the claimant's ability or availability to work, a refusal to accept suitable work or a possible employment separation.

dlw/kjf