

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA L LEEMHUIS

Claimant

APPEAL NO. 13A-UI-09484-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLINTON COMMUNITY SCHOOL DIST

Employer

OC: 07/21/13

Claimant: Respondent (1)

Section 96.5-3-a – Refusal of Suitable Work
871 IAC 24.24(8) – Work Refusal Disqualification Jurisdiction

STATEMENT OF THE CASE:

The Clinton Community School District filed a timely appeal from a representative's decision that was dated August 6, 2013, reference 01, which held the claimant to be eligible to receive unemployment insurance benefits finding that on June 25, 2013 the claimant did not accept an offer of work with the Clinton Community School District but finding that the claimant did not have a valid unemployment insurance claim for benefits at the time. Upon receipt of the employer's appeal, a hearing was scheduled and notice of the issues provided to the parties. A telephone hearing was held September 23, 2013. Ms. Leemhuis indicated that she would not be participating as she had found new employment after receiving one-week of unemployment insurance benefits. The employer participated by Mr. Jeff Terrell, Human Resource Director and Mr. David Bloom, Director of Student Services. Mr. Mark Bloom was available but did not testify.

ISSUE:

At issue is whether the claimant is subject to a benefit disqualification for refusing suitable work at a time when she did not have a valid unemployment insurance claim.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Amanda Leemhuis was employed by Clinton Community School District from November 1, 2012 until May 29, 2013 when the most recent school term ended. Ms. Leemhuis was employed as a part-time para-educator and was paid by the hour.

Mr. Leemhuis was verbally informed by her principal, Mr. Bloom, on June 6, 2013 that her job as a para-educator in the moderate classroom was being eliminated. Mr. Bloom offered Mr. Leemhuis a choice of several different para-educator job placements for the next school term. Ms. Leemhuis rejected most offers because they were not compatible with childcare/schooling. On June 25, 2013, the Clinton Community School District offered Ms. Leemhuis a job position in writing offering her the same working hours and pay doing

similar work at a different school location. Ms. Leemhuis declined the offer. Ms. Leemhuis opened a valid claim for unemployment insurance benefits with an effective date of July 21, 2013.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant is subject to a benefit disqualification and the employer relieved of charging. She is not subject to a benefit disqualification.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

871 IAC 24.24(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

In this case although the evidence in the record establishes that the Clinton Community School District went to extraordinary lengths to offer Ms. Leemhuis an offer of suitable work that would be compatible with her previous employment, hours and pay, the claimant is not subject to a benefit disqualification because she refused the offer on June 25, 2013. At the time that the offer of suitable work was made to Ms. Leemhuis she had not filed a claim for unemployment insurance benefits. 871 IAC 24.24(8) requires that for a benefit disqualification to be assessed for a refusal of an offer of suitable work the offer of work and the accompanying refusal must occur within the individual's benefit year. At the time that this offer was made, although it was suitable, it was not made while Ms. Leemhuis was claiming unemployment insurance benefits. Therefore, the claimant cannot be disqualified for refusing suitable work at that time and the employer cannot be relieved of charging for that reason.

Although the administrative law judge cannot grant the employer the relief requested on this appeal, there may be issues of voluntarily leaving employment and or issues of eligibility to receive unemployment insurance benefits between academic terms or years if the claimant has received reasonable assurance of continuing employment in the same or similar capacity for the school district. Because these issues were not properly before the administrative law judge no decision on these issues can be made in this appeal. These matters may be brought to the attention of Iowa Workforce Development for investigation if the employer believes that the claimant may be subject to a benefit disqualification and the resulting non-charging for the employer.

DECISION:

The representative's decision dated August 6, 2013, reference 01, is affirmed. The claimant is not subject to a benefit disqualification for refusing to accept an offer of suitable work on June 25, 2013 because the claimant did not have a valid unemployment insurance claim for benefits.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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