

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARBARA J CHAMBERS

Claimant

APPEAL NO: 19A-UI-01329-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAYMON INTERACTIONS INC

Employer

OC: 12/30/18

Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Discharge

STATEMENT OF THE CASE:

Daymon Interactions, Inc., the employer, filed a timely appeal from a representative's unemployment insurance decision dated February 7, 2019, (reference 02) which held claimant eligible to receive unemployment insurance benefits, finding that the claimant was separated from employment by the employer on September 13, 2018 for no disqualifying reason. After due notice was provided, a telephone hearing was held on February 28, 2019. Claimant participated. Employer participated by Ms. Carolyn Karettis, Hearing Representative and witnesses Ms. Tami Curci, Claimant Specialist Employer Unity and Ms. Laura Betke, Account Manager. The administrative file was marked as Department Exhibit 1 and admitted into the hearing record without objection.

ISSUE:

The issue is whether the claimant's job separation on September 13, 2018 was for work-connected misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Barbara Chambers began employment with Daymon Interactions, Inc. on January 12, 2016. Ms. Chambers was employed as a brand demonstrator promoting the sale of brand named products at client supermarkets and other retail locations. Ms. Chambers was paid by the hour, and when first employed Ms. Chambers had set working days. After approximately one year of working on set days, Daymon Interactions, Inc. would notify Ms. Chambers and other similar situated workers by email about intermittent jobs that might be available. Under the procedure, the individuals who were sent a notification were expected to respond if available and interested in accepting the spot assignments.

Barbara Chambers last performed services as a brand demonstrator for Daymon Interactions, Inc. on May 26, 2018. Ms. Chambers completed the spot assignment that day as agreed. On later unspecified dates, Daymon Interactions, Inc. sent Ms. Chambers notifications about spot jobs. If she was interested in accepting the spot job assignment, she was to respond to the company to accept the job.

In early September 2018, Daymon Interactions, Inc. became aware that they had not received any communications from Ms. Chambers about her acceptance of any of the job positions. The company sent Ms. Chambers an electronic communication on September 6, 2018. The notification stated that if she failed to respond by September 12, 2018 she would be terminated from company employment rolls. Ms. Chambers was unaware of the September 6, 2018 electronic notification, therefore gave no response.

The spot job that Ms. Chambers had completed on May 26, 2018, ended by its own terms. She had agreed to work that day and had done so. Ms. Chambers had elected not to take any further demonstrator/assignments because she was engaged otherwise and had decided to seek different day employment. Ms. Chambers performed no services for Daymon Interactions, Inc. after completing her last spot job assignment on May 26, 2018.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

Iowa Admin. Code r. 871-24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

In the case at hand, Ms. Chambers was initially employed on a semi-regular basis with set working days. After approximately one year, the employer changed the employment relationship offering Ms. Chambers only one day spot jobs as a brand product demonstrator. Ms. Chambers fulfilled the contract of hire for each day job when that day's job was completed.

Ms. Chambers did not quit, she fulfilled the agreement by completing the day's work. The claimant agreed to work the one day job that was accepted and the job came to an end by its own terms.

As claimant had fulfilled the agreement of hire for each of the spot jobs when each of the jobs were completed. It was the claimant's choice not to accept later spot jobs that may have been available to her is not considered an issue of quitting employment. The issue in this case is more accurately an issue of whether the claimant has refused an offer of suitable work. The issue of whether there has been a refusal of an offer of suitable work is not the subject of the employer's appeal. The employer may request Iowa Workforce Development investigate the refusal of suitable work issue, however that issue is not properly before the administrative law judge on appeal in the case at hand.

Based upon the evidence in the record, the administrative law judge concludes Ms. Chambers completed the agreement of hire for the May 26, 2018 spot job, and the employment relationship ended by its own terms and for no disqualifying reason.

The employer's decision to later remove Ms. Chambers from the spot job list, it is not dispositive of the issue of the claimant's qualification to receive unemployment insurance benefits. The employer's decision not to offer the claimant more work does not establish disqualifying work-connected misconduct on the part of the claimant. Accordingly, benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's unemployment insurance decision dated February 7, 2019, reference 02 is affirmed. Claimant's separation from employment took place under non-disqualifying conditions. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn