

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PENNY L MURPHY**

Claimant

**APPEAL 15A-UI-13981-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE MERRILL COMPANY**

Employer

**OC: 07/19/15**

**Claimant: Appellant (2)**

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Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 14, 2015 (reference 01) unemployment insurance decision that denied benefits based upon refusing an offer of work. After due notice was issued, a telephone conference hearing was held on January 12, 2015. Claimant participated. Employer participated through human resources representative Tracy Boyd and warehouse manager Mike Peterson.

**ISSUES:**

Was a suitable offer of work made to the claimant?

If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant via Peterson on November 19, 2015. That offer included the following terms: warehouse stock picker, full-time, 50-pound lifting requirement, working on concrete, 7 a.m. to 5:30 p.m. The wage offered for the job is \$12 per hour; which is comparable to the prevailing rate of pay for similar work in the Spencer area. Claimant's average weekly wage is \$919.45. The offer was made beyond the week 18 of unemployment. She said she would accept the position and complete the drug test. She had worked on cement before and had leg, feet, and back issues from her prior employment. She has no warehouse work experience. She had been an office worker and has a bachelor's degree in Psychology and Human Service with a minor in Sociology. She is applying for office jobs and was unaware until the interview that the job was in the warehouse.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the offer of work was not suitable.

Iowa Code § 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. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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) 100 percent, if the work is offered during the first five weeks of unemployment.

(2) 75 percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) 70 percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) 65 percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

The offer was suitable to the extent it met the minimum wage requirements set out above for an offer to be considered suitable. However, given the claimant's education, training, physical limitations, and work history, the job duties were not suitable. Since claimant had never worked for this company, its account is not liable for benefit charges.

**DECISION:**

The December 14, 2015 (reference 01) unemployment insurance decision is reversed. The offer of work was not suitable. Benefits are allowed, provided claimant is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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