

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LISA K KRUSE
Claimant

APPEAL 17A-UI-02441-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALL IN A DAY LLC
Employer

OC: 07/03/16
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 27, 2017 (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant refused to accept a suitable offer of work. The parties were properly notified of the hearing. A telephone hearing was held on March 28, 2017. The claimant, Lisa Kruse, participated. The employer, All In a Day, L.L.C., participated through Toni Holguin, HR Specialist. Claimant's Exhibit A and Employer's Exhibit 1 were received and admitted into the record without objection.

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 reviewed all of the evidence in the record, the administrative law judge finds: Employer All In a Day, L.L.C., made an offer of work to claimant through a telephone conversation on January 25, 2017. That offer was for claimant to return to a position at Victor Manufacturing, from which she had been laid off in November 2016. Claimant was offered the same rate of pay that she earned previously, and she was offered her previous schedule and full-time hours. The only difference was that this position was a five-to-six week position and was not an offer of permanent work. Claimant refused this offer of work, as she had obtained a part-time position at the Marengo Memorial Hospital. Claimant anticipates this will lead to a full-time position in the near future.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept a suitable offer of work.

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

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

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

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

Iowa Admin. Code r. 871-24.23(20) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

Here, claimant was extended a suitable offer of work by her former employer. She was offered to return to a full-time position at the same rate of pay she earned prior to layoff. Claimant chose to refuse this offer of work in order to continue in a part-time position with another employer in hopes that her part-time position would lead to a full-time position in the future. While claimant may have had good personal reasons for refusing the offer of work, her decision to decline the work offered by All In a Day, L.L.C. was not for a good-cause reason under Iowa law. Benefits are withheld.

DECISION:

The February 27, 2017 (reference 03) unemployment insurance decision is affirmed. Claimant failed to accept a suitable offer of work. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed