

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MEGAN R HENDERSON
Claimant

QPS EMPLOYMENT GROUP INC
Employer

APPEAL 20A-UI-01773-AW
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/17/19
Claimant: Appellant (1)

Iowa Code § 96.5(3)A – Work Refusal

STATEMENT OF THE CASE:

Claimant filed an appeal from the February 21, 2020 (reference 05) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A hearing was held in Des Moines, Iowa on March 10, 2020, at 3:00 p.m. Claimant participated. Claimant's father, Todd Henderson, served as claimant's non-attorney representative. Employer did not participate. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant refused to accept an offer of suitable work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed her original claim for benefits effective November 17, 2019. Claimant's highest quarter of earnings during her base period was the third quarter of 2018 during which claimant earned \$7,2361.00. Claimant's weekly wage during the high quarter of her base period was \$556.67.

Employer made an offer of work to claimant on February 4, 2020. The offer was for a full-time (per the administrative record) position with Goodwill in Waukee, Iowa making \$11.00 per hour. The offer was made during claimant's twelfth week of unemployment. Claimant declined the offer because it would have required her to commute 30-40 minutes each way to work. Claimant's last assignment was with Paragon International in Nevada, Iowa; claimant's commute was approximately 25 minutes each way.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant refused a suitable offer of work. Benefits are denied.

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.

A two-step analysis is used to determine whether a claimant has refused a suitable offer of work. First, the offer must be for suitable work. If suitability is established, then, claimant must have a good cause reason for refusal. See Iowa Admin. Code r. 871-24.24(3).

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence,

memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find claimant's testimony that she declined the job offer because claimant did not have the opportunity to find out about the job duties to lack credibility. Claimant did not ask employer questions about the job duties prior to declining the offer. The reason claimant declined the offer of work was commute distance/time and compensation.

To be considered suitable, an offer of work must meet minimum wage requirements set out above. Because the offer was made during claimant's twelfth week of unemployment, the offer must meet or exceed 75% of claimant's average weekly wage to be considered suitable. Claimant's average weekly wage during the highest quarter of her base period was \$556.67. Seventy-five percent of that average weekly wage is \$417.40. Employer's offer was for 40 hours per week at a wage of \$11.00 per hour, which amounts to a gross weekly wage of \$440.00. The compensation (\$440.00 per week) exceeded the minimum wage requirement (\$417.40 per week) and, therefore, was suitable. The commute associated with the offer was slightly further and may take slightly longer than claimant's last assignment. However, the commute was not such that it would make the offer unsuitable given claimant's past commute. Claimant refused to accept a suitable offer of work. Claimant has not established good cause for refusing to accept the offer of suitable work. Accordingly, benefits are denied.

DECISION:

The February 21, 2020 (reference 05) unemployment insurance decision is affirmed. Claimant refused an offer of suitable work. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/scn