

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOYANNA J CLAGGETT
Claimant

APPEAL NO. 23A-UI-09366-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FINANCIAL FREEDOM CONTROLS LLC
Employer

**OC: 06/18/23
Claimant: Appellant (2)**

Iowa Code Section 96.5(3)(a) – Refusal of Suitable Work

STATEMENT OF THE CASE:

On October 3, 2023, Joyanna Claggett (claimant) filed a timely appeal from the September 25, 2023 (reference 04) decision that disqualified her for benefits, based on the deputy's conclusion the claimant refused recall to suitable work with Financial Freedom Controls, L.L.C. on July 31, 2023. After due notice was issued, a hearing was held on October 18, 2023. Claimant participated. Paul Mixdorf represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following IWD administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUE:

Whether the claimant refused an offer of suitable employment on July 31, 2023 without good cause.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Joyanna Claggett (claimant) established an original claim for benefits that was effective June 18, 2023. The claimant did not immediately begin making weekly claims. The claimant reopened the claim effective June 25, 2023 and then commenced making weekly claims. The claimant made weekly claims for each of the six weeks between June 25, 2023 and August 5, 2023.

At the time the claimant established her original claim for benefits, she had most recently been employed as a full-time Front Office Coordinator. That employment had provided a \$16.00 hourly wage and 8:00 a.m. to 5:00 p.m., Monday through Friday work hours.

The claimant's highest earnings base period quarter was the fourth quarter of 2022, during which the claimant was paid wages totaling \$5,760.00. That amounted to a \$443.08 average weekly wage.

On July 28, 2023, prospective employer Financial Freedom Controls, L.L.C., offered the claimant full-time employment as an office assistant with a \$15.00 wage and dayshift work hours. The offered wage would provide \$600.00 in weekly wages and work hours similar to those the claimant had held with her most recent previous employer. The claimant has never been employed with Financial Freedom Controls. At the time the prospective employer offered employment to the claimant on July 28, 2023, the prospective employer was aware that the claimant was in discussion with multiple prospective employers and that the claimant was interested in employment that might offer the possibility of remote work. Financial Freedom Controls had told the claimant that a remote work arrangement was unlikely with that employer.

On July 31, 2023, the claimant notified Financial Freedom Controls that she had decided to accept another offer of employment.

On July 31, 2023, the claimant accepted a full-time teller position with First Citizens Bank. The accepted employment offered a \$16.00 starting wage and the distant possibility of remote work. The claimant began the new employment on August 10, 2023. Until the claimant began the new employment, she continued to apply for other jobs in order to comply with Iowa Workforce Development work search requirements.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 week of unemployment.

(b) Ninety percent, if the work is offered during the second through the third week of unemployment.

(c) Eighty percent, if the work is offered during the fourth through the fifth week of unemployment.

(d) Seventy percent, if the work is offered during the sixth through the eighth week of unemployment.

(e) Sixty percent, if the work is offered after the eighth 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. 871-24.24(15) provides as follows:

(15) Suitable work. In determining what constitutes suitable work, the department shall consider, among other relevant factors, the following:

- a. Any risk to the health, safety and morals of the individual.
- b. The individual's physical fitness.
- c. Prior training.
- d. Length of unemployment.
- e. Prospects for securing local work by the individual.
- f. The individual's customary occupation.
- g. Distance from the available work.
- h. Whether the work offered is for wages equal to or above the federal or state minimum wage, whichever is higher.
- i. Whether the work offered meets the percentage criteria established for suitable work which is determined by the number of weeks which have elapsed following the effective date of the most recent new or additional claim for benefits filed by the individual.
- j. Whether the position offered is due directly to a strike, lockout, or other labor dispute.
- k. Whether the wages, hours or other conditions of employment are less favorable for similar work in the locality.
- l. Whether the individual would be required to join or resign from a labor organization

Iowa Admin. Code r. 871-24.24(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.

Iowa Admin. Code r. 871-24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The claimant refused a bona fide offer of suitable work on July 31, 2023. The work offered wages that exceeded 100% of the average weekly wage during the highest earnings base period quarter. The work offered hours and duties reasonably similar to the duties the claimant had performed for her next most recent employer. The claimant's acceptance of another, better offer of employment on July 31, 2023 provided a good cause basis for refusing employment with Financial Freedom Controls. The July 31, 2023 work refusal does not disqualify the claimant for benefits. The claimant is eligible for benefits, provided the claimant meets all other eligibility requirements.

DECISION:

The September 25, 2023 (reference 04) decision is REVERSED. The claimant refused a bona fide offer of suitable work on July 31, 2023, but had good cause for the refusal. The July 31, 2023 work refusal does not disqualify the claimant for benefits. The claimant is eligible for benefits, provided the claimant meets all other eligibility requirements.



James E. Timberland
Administrative Law Judge

October 27, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.