

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LOUETTA K SMITH**  
Claimant

**APPEAL NO. 11A-UI-05777-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AM HOTELS INC**  
Employer

**OC: 03/13/11**  
**Claimant: Respondent (1)**

Section 96.5-3-a – Refusal of Suitable Work

**STATEMENT OF THE CASE:**

AM Hotels Inc., doing business as Baymont Inn and Suites, filed a timely appeal from a representative's decision dated April 21, 2011, reference 02, that held the claimant potentially eligible to receive unemployment insurance benefits because the claimant did not have a valid unemployment insurance claim at the time that she did not accept an offer of work from AM Hotels. After due notice was issued, a telephone hearing was held May 23, 2011. Although notified, the claimant did not participate. The employer participated by Mr. Sonny Patel, General Manager.

**ISSUE:**

At issue is whether the claimant refused suitable work while claiming unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Louetta Smith was employed as an on-call worker for AM Hotels Inc. during the year 2010. Ms. Smith worked as an on-call housekeeper and was paid by the hour.

Ms. Smith did not respond to offers of work made by AM Hotels Inc. via telephone on December 23, 2010, January 2 and January 3, 2011. At the time of the refusal Ms. Smith had not opened an unemployment insurance claim. The effective date for Ms. Smith's unemployment insurance claim is March 13, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the claimant had a valid unemployment insurance claim at the time she did not accept an offer of work with AM Hotels Inc. She did not.

871 IAC 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.

871 IAC 24.24(4) provides:

(4) Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3). Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

871 IAC 24.24(11) provides:

(11) Bulletin board notice of work. A bulletin board notice for employees to work during a plant shutdown shall not constitute an offer of work by the company. Such offer of work must be by personal contact to the employee.

871 IAC 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.

Inasmuch as the evidence in the record establishes that Ms. Smith did not have a valid unemployment insurance claim at the time work was offered by AM Hotels Inc., the claimant is not subject to a benefit disqualification for failure to accept offers of work that were made by the company on December 23, 2010, January 2 and January 3, 2011. Benefits are allowed provided the claimant meets all other eligibility requirements of Iowa law.

#### **DECISION:**

The unemployment insurance decision dated April 21, 2011, reference 02, is affirmed. The claimant is eligible to receive unemployment insurance benefits. The claimant did not have a valid unemployment claim at the time she did not accept an offer of work with AM Hotels Inc. on

or about January 5, 2011. The claimant is eligible providing that she meets all other eligibility requirements of Iowa law each week that she claims benefits.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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