

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEATRICE J STRATTON

Claimant

APPEAL NO. 07A-UI-11309-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY CARE SOLUTIONS

Employer

**OC: 11/11/07 R: 04
Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Family Care Solutions, filed an appeal from a decision dated December 4, 2007, reference 02. The decision allowed benefits to the claimant, Beatrice Stratton. After due notice was issued, a hearing was held by telephone conference call on December 20, 2007. The claimant participated on her own behalf. The employer participated by Administrator Suzanne Heller.

ISSUE:

The issue is whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

Beatrice Stratton had been laid off for lack of work on November 10, 2007. On December 3, 2007, she was offered a part-time position, which she refused because it was not full-time. She was also offered a full-time position during day hours in Bettendorf, Iowa, which is 45 miles from her home.

The claimant refused the full-time position because she had worked exclusively nights for the employer for eight years, and the distance was further than she could drive given her age and the condition of her vehicle. She had requested assignments in the area of Muscatine, Iowa, only.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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) One hundred percent, if the work is offered during the first five weeks of unemployment.
- (2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.
- (3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.
- (4) Sixty-five 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.

871 IAC 24.24(7) provides:

- (7) Gainfully employed outside of area where job is offered. Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

The claimant refused both job offers for good cause. One was that it was only part-time when all her base period wages were from full time work. The other was that the job entailed day hours at a distance of 45 miles from her home, and she had been working exclusively night hours in her area of residence. Under the provisions of the above Administrative Code section, this is good cause for refusing the offers of work and disqualification may not be imposed.

DECISION:

The representative's decision of December 4, 2007, reference 02, is affirmed. Beatrice Stratton is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw