

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA M LLOYD
Claimant

APPEAL NO. 08O-UI-09339-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS DAIRY INC
Employer

OC: 01/13/08 R: 01
Claimant: Appellant (2)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 19, 2008, reference 05, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on October 29, 2008. Claimant participated. Employer opted not to participate according to its representative's letter dated October 21, 2008.

ISSUE:

The issue is whether claimant refused a suitable offer of work and if so, whether the refusal was for a good cause reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant on May 27, 2008. That offer included the following terms: full-time, temporary production worker at \$10.12 per hour in LeMars, Iowa. Claimant's average weekly wage is \$367.89. The offer was made in the fifth month of unemployment. There is insufficient information that the wage offered for the job is comparable to the prevailing rate of pay for similar work in the LeMars area. Claimant has not worked in LeMars before but primarily in Sioux City, Iowa. She applied on the Internet, which had no details of the job or jobs available. She thought she could carpool with her cousin but her car broke down before the interview. Her application stated she wanted full-time hours without weekend work and she was offered temporary employment with ten hour days not including a two-hour commute, and some mandatory overtime on weekends. She currently has transportation, available childcare, has recently taken CNA training and is searching for that type of work in the Sioux City area.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse 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. 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.

The offer was unsuitable, as it would have required her to work well outside of the geographic area of her work history. Benefits are allowed.

DECISION:

The August 19, 2008, reference 05, decision is reversed. Claimant did not refuse a suitable offer of work but must continue to make at least two in-person work searches per week to be

eligible for benefits during any claim week. Benefits are allowed, provided claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css