

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REBECCA L COLLINS

Claimant

APPEAL 15A-UI-13932-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KEOKUK AREA HOSPITAL

Employer

OC: 09/13/15

Claimant: Respondent (2)

Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The employer filed an appeal from the December 9, 2015, (reference 02) unemployment insurance decision that allowed benefits based upon refusing an offer of work. After due notice was issued, a telephone conference hearing was held on January 11, 2016. Claimant participated. Employer participated through employment manager Louise Skow and human resource director, Lora Taylor. The administrative law judge took official notice of the administrative record, including base period wage records.

ISSUES:

Was a suitable offer of work made to the claimant?

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 via phone by surgical services manager Lydia Mager on November 2, 2015. On November 3 Skow spoke with claimant who told her that offer included the following terms: Staff surgical nurse, full-time, day shift, with benefits, \$1,000 sign-on bonus at the end of the 90-day training period. The wage offered for the job is \$25.00 per hour (\$1,000 per 40-hour week), which is comparable to the prevailing rate of pay for similar work in the Keokuk area. Claimant's average weekly wage is \$1253. Seventy-five percent of that is \$939.75. The offer was made in the eighth week of unemployment. She declined the offer and was going to work with a traveling organization which was going to look for work for her within a 50-mile radius of her home in Stronghurst, Illinois but did not have work arranged. Keokuk Area Hospital is 47 miles from her residence.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept 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.

Iowa Admin. Code r. 871-24.23(20) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(20) Where availability for work is unduly limited because the claimant is waiting to go to work for a specific employer and will not consider suitable work with other employers.

The offer was suitable as a matter of law and claimant did not have a good-cause reason for the failure to accept it.

DECISION:

The December 9, 2015, (reference 02) unemployment insurance decision is reversed. Claimant failed to accept a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible. Since no benefits were paid for weeks claimed, no overpayment is established.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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