

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ELIZABETH A SAWVELL
Claimant

APPEAL NO. 18R-UI-11096-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

R J PERSONNEL INC
Employer

OC: 04/08/18
Claimant: Appellant (1)

Section 96.5-3-a – Refusal to Accept Suitable Work
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Elizabeth Sawvell (claimant) appealed a representative's September 10, 2018, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits from August 12 to August 25, 2018, because she was unable to work with R. J. Personnel (employer). This administrative law judge issued a decision on October 2, 2018, affirming the representative's decision. A decision of remand was issued by the Employment Appeal Board on November 9, 2018. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 29, 2018. The claimant participated personally. The employer participated by Mike Thomas, Account Manager. The employer offered and Exhibit 1 was received into evidence.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from October 18, 2010, to 2011, and from 2014, to July 28, 2018. The employer left the claimant messages on August 1 and twice on August 9, 2018. The claimant did not return the employer's calls. On August 16, 2018, the employer sent the claimant a certified letter with a job offer. The claimant signed for receipt of the certified letter on August 17, 2018. Later, the claimant indicated to Iowa Workforce Development that she was sick with influenza for the two-week period ending August 25, 2018.

REASONING AND CONCLUSIONS OF LAW:

Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4). The administrative law judge concludes the claimant was not able and available for work from August 12 through August 25, 2018.

Iowa Admin. Code r. 871-24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was sick with the flu. She is considered to be unavailable for work from August 12 through August 25, 2018. The claimant is disqualified from receiving unemployment insurance benefits for the two-week period ending August 25, 2018, due to her unavailability for work.

DECISION:

The representative's September 10, 2018, decision (reference 03) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits for the two-week period ending August 25, 2018, because she was not available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs