

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELLEN M LANKFORD
Claimant

APPEAL NO: 13A-UI-07726-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STEENA CO LLC
Employer

OC: 06/02/13
Claimant: Respondent (1)

Iowa Code § 96.5(3) – Refusal of Offer of Suitable Work

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's June 24, 2013 determination reference 01) that held the claimant eligible to receive benefits even though she did not accept the employer's offer of work to temporarily work at another location. The hearing notice only listed separation issues, not a refusal of suitable work issue. Both parties agreed to waive their right to advance notice and asked that the refusal issue be addressed in the hearing. The separation issue was not an issue addressed in the June 24, 2013 determination.

The claimant participated in the hearing. Cara VanSteenis, the owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is eligible to receive benefits as of June 2, 2013.

ISSUE:

Did the claimant refuse the employer's offer of work at another location during the summer with good cause?

FINDINGS OF FACT:

The claimant was working at McDonald's before VanSteenis bought the business in January 2012. The claimant continued working after VanSteenis bought the Knoxville McDonald's business.

In early May 2013, the employer asked employees if they would work at the employer's business in Pella or Oskaloosa while the Knoxville McDonald's was closed for remodeling during the summer of 2013. The employer also asked employees what hours they wanted to work, if they needed transportation to either town and if they planned to return to the Knoxville location when it reopened. The claimant indicated she was not available to work at either the Pella or Oskaloosa locations, but she wanted to return to work when the Knoxville location reopened. The employer would have paid the same hourly wage and scheduled the claimant to work as many hours as she had before. The employer also would help employees get to work in Pella or Oskaloosa.

The claimant did not want to work 14 to 23 miles from home because she has six children at home. She did not want to be that far away from her children during the summer. Her husband does not work in Knoxville. The claimant established a claim for benefits during the week of June 2, 2013. The claimant plans to return to work for the employer in Knoxville when the business reopens.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she refused an offer of suitable work without good cause. Iowa Code § 96.5(3)a. Before a claimant can be disqualified from receiving benefits, the offer of work must occur within the claimant's benefit year. 871 IAC 24.24(8). The facts show the employer asked all employees, including the claimant, in early May if they would work at the employer's Pella or Oskaloosa locations during the summer. Since this inquiry was made before the claimant established her claim, the claimant cannot be disqualified from receiving benefits before she established her claim.

The claimant intends to return to work at the Knoxville location when the business reopens. As a result, her unemployed status as of June 2 is for nondisqualifying reasons. The claimant is qualified to receive benefits as of June 2, 2013.

DECISION:

The representative's June 24, 2013 determination (reference 01) is affirmed. The employer's offer of work occurred before the claimant established her claim for benefits. Based on the law, the claimant cannot be disqualified for declining an offer of work before she established a claim for benefits. The claimant is temporarily unemployed because the Knoxville location is closed for remodeling. The claimant is qualified to receive benefits as of June 2, 2013, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs