

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DIANE F CRIST
Claimant

MIDWEST PROFESSIONAL STAFFING LLC
Employer

APPEAL 15R-UI-12628-EC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/02/15
Claimant: Appellant (3R)**

Iowa Code § 96.5(3)a – Failure to Accept Suitable Work
Iowa Admin. Code r. 486-3.1(6) – Employment Appeal Board Action

STATEMENT OF THE CASE:

The claimant/appellant filed a timely appeal from the August 26, 2015, (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on September 22, 2015, before Administrative Law Judge Julie Elder. The claimant participated. The employer also participated. Judge Elder issued a decision on the merits on September 28, 2015, concluding that the claimant was eligible for benefits as of August 28, 2015. The employer appealed this decision to the Employment Appeal Board.

The Employment Appeal Board affirmed Judge Elder's decision in part, specifically finding that the claimant was able and available for work after August 28, 2015. The Employment Appeal Board remanded the matter to the Iowa Workforce Development Appeals Section for a determination of whether the claimant refused an offer of suitable work on August 13, 2015.

The UI Appeals Manager, Emily Chafa, reviewed the record of the hearing held on September 22, 2015, and determined that the existing record was sufficient to make a finding regarding the claimant's refusal of an offer of suitable work on August 13, 2015. This decision is based on the record, and is written to comply with the specific directions and terms of the Employment Appeals Board's decision, remanding the matter for a specific determination.

ISSUE:

Did the claimant fail to accept a suitable offer of work on August 13, 2015, and if so, was the failure to do so for a good-cause reason?

FINDINGS OF FACT:

On August 13, 2015, the employer, Midwest Professional Staffing LLC, made an offer of work of a customer service telephone position to the claimant. The employer had at least four conversations with the claimant on August 13, 2015 regarding this offer of work. The claimant refused this offer of work, stating that she was not interested in doing customer service over the phone. Later that same day, on August 13, 2015, the employer offered the claimant a position

at another company, as an accounting tech, doing general ledger work. The claimant refused this offer of work, stating that she hated general ledger work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant failed to accept an offer of suitable work on August 13, 2015.

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. 871-24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The offer was suitable as it was similar to the work she previously performed and the claimant did not have a good-cause reason for the failure to accept it.

DECISION:

The decision issued on September 28, 2015, is affirmed and modified in accordance with the specific direction from the Employment Appeals Board. The claimant refused an offer of suitable work on August 13, 2015. The issue is remanded to the Claims Bureau to determine the claimant's eligibility for benefits as of August 13, 2015 and to calculate any overpayment resulting from this decision.

Emily Gould Chafa
Administrative Law Judge

Decision Dated and Mailed

ec/css