

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**NANCY A STODDEN**  
Claimant

**J&D RESTAURANTS INC**  
Employer

**APPEAL 18A-UI-09637-LJ**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/26/18**  
**Claimant: Respondent (1)**

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Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Admin. Code r. 871-24.24(8) – Offer of Work Outside of Benefit Year

**STATEMENT OF THE CASE:**

The employer filed an appeal from the September 13, 2018 (reference 02) unemployment insurance decision that allowed benefits based upon a determination that claimant did not refuse an offer of work because no offer was actually made. The parties were properly notified of the hearing. An in-person hearing was held in Des Moines, Iowa, on October 3, 2018. The claimant, Nancy Stodden, participated via telephone. The employer, J&D Restaurants, Inc., participated through Alison McAninch, Office Manager.

**ISSUE:**

Was a suitable offer of work made to the claimant?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer made claimant an offer of work on August 6, 2018. Specifically, the employer offered claimant a job at any of its locations in the Des Moines metropolitan area. The offer did not include a proposed number of hours or schedule. This offer arrived before claimant began filing for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the offer of work was made prior to the start of claimant's benefit year. Benefits are allowed.

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) 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(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

In this case, the employer made claimant an offer of work prior to the commencement of her benefit year. The administrative law judge does not have jurisdiction to evaluate the offer or refusal of work since the offer of employment took place outside of the benefit year. Benefits are allowed.

**DECISION:**

The September 13, 2018 (reference 02) unemployment insurance decision is affirmed. Claimant failed to accept an offer of work made outside of her benefit year; thus, the administrative law judge has no jurisdiction to determine suitability of the offer. Benefits are allowed, provided claimant is otherwise eligible.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn