

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

SANDRA K FRITZ
Claimant

APPEAL 22A-UI-15330-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIOUX VALLEY MEMORIAL HOSPITAL
Employer

**OC: 05/15/22
Claimant: Respondent (1)**

Iowa Code § 96.5(3)a – Failure to Accept Work
Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.24(7) – Gainful employment

STATEMENT OF THE CASE:

Sioux Valley Memorial Hospital, the employer/appellant, filed an appeal from the July 12, 2022, (reference 03) unemployment insurance decision that allowed benefits because Ms. Fritz refused a job offer from this employer on June 17, 2022 because she was employed elsewhere. The parties were properly notified about the hearing. A telephone hearing was held on August 25, 2022. The employer participated through Krista Cuthrell, human resources generalist. Ms. Fritz participated personally. The administrative law judge took official notice of the administrative record. Employer's Exhibit 1 was admitted as evidence.

ISSUE:

Is Ms. Fritz able to and available for work?
Was a suitable offer of work made to Ms. Fritz?
If so, did she decline the offer and was it for a good cause reason?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Fritz filed her initial claim for benefits effective May 15, 2022. Ms. Fritz applied for a Business Office Clerk position with this employer on May 26, 2022. She interviewed on June 10, 2022 and the employer offered her a full-time position on June 14, 2022 at a pay rate of \$19.22 per hour.

Ms. Fritz had also applied for a position with a different employer. The other employer also offered Ms. Fritz a position in their business office. The other employer offered to pay Ms. Fritz \$19.25 per hour and this other employer is closer to Ms. Fritz's home. Ms. Fritz accepted the position with the other employer. On June 16, Ms. Fritz declined this employer's offer because she had accepted the other employer's offer.

The week of June 12-18, 2022 was the fifth week since Ms. Fritz had filed her UI claim. Ms. Fritz's average weekly wage (AWW) is \$1,314.69, and 75 percent of Ms. Fritz's AWW is \$986.18.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Fritz did refuse a suitable offer of work, but she did so for good cause.

On June 16, 2022, Governor Reynolds signed into law House File 2355, which among other things, amended Iowa Code 96.5(3)a. The bill did not include an effective date and so it took effect on July 1, 2022. See Iowa Const. art. III, § 26; Iowa Code § 3.7(1).

There is a strong presumption in U.S. jurisprudence against legislation being applied retroactively. “The principle that the legal effect of conduct should ordinarily be assessed under the law that existed when the conduct took place has timeless and universal human appeal.” *Kaiser Aluminum & Chem. Corp. v. Bonjorno*, 494 U.S. 827, 855 (1990) (Scalia, J. concurring). This is in part because “elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly....” *Landgraf v. USI Film Prod.*, 511 U.S. 244, 265 (1994).

It would be fundamentally unfair and inconsistent with widely accepted legal principles to apply the amended Iowa Code 96.5(3)a to this matter, which occurred before HF 2355 went into effect on July 1, 2022. As such, the amended Iowa Code 96.5(3)a effective July 1, 2022 should not be applied here, and instead Iowa Code 96.5(3)a as it existed at the time the employer offered and Ms. Fritz declined the employer's offer will be applied.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(7) provides:

(7) Gainfully employed outside of area where job is offered. Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered..

Cases of "refusal of suitable work without good cause" are subject to a two-step analysis. A determination must be made regarding whether the offer was suitable, and if it was, whether claimant had good cause for refusal. Iowa Admin. Code 871—24.24(3). The employer has the burden of proving the offer was suitable. If the offer was suitable, the claimant has the burden to establish the offer was refused for "good cause." "Good cause for refusing work must involve circumstances which are real, substantial, and reasonable, not arbitrary, immaterial, or capricious." *Norland v. IDJS*, 412 N.W.2d 904, 914 (Iowa 1987).

In this case, the employer made an offer of work to Ms. Fritz in her fifth week of unemployment. The employer offered to pay Ms. Fritz just over 58 percent of her average weekly wage. Since the employer's offer was not at least 100 percent of Ms. Fritz's average weekly wage, the offer was not suitable. Furthermore, Ms. Fritz declined the employer's offer because she accepted a better paying job closer to her home. Ms. Fritz refused an unsuitable offer of work for good cause. Benefits are allowed.

DECISION:

The July 12, 2022, (reference 03) unemployment insurance decision is AFFIRMED. The employer's June 14, 2022 offer of work was not suitable and Ms. Fritz had good cause to decline the offer. Benefits are allowed.



Daniel Zeno
Administrative Law Judge

October 3, 2022
Decision Dated and Mailed

dz/kmj

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.