

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANA M SUHR**  
Claimant

**APPEAL NO: 06A-UI-09780-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES INC**  
Employer

**OC: 09/10/06 R: 02**  
**Claimant: Respondent (2)**

Section 96.5-3-a – Refusal of Suitable Work

**STATEMENT OF THE CASE:**

DES Staffing Services, Inc. (employer) appealed a representative's October 3, 2006 decision (reference 07) that concluded Diana M Suhr (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the employer did not file a timely protest. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 1, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Kathy Anderson, the human resource manager, appeared on the employer's behalf.

The administrative record clearly showed the employer filed a timely protest by faxing a completed noticed of claim on September 28, 2006. Since no one on the Department's behalf participated in the hearing, it is not known why a representative determined the employer did not file a timely protest when the employer did. As a result, there is no timeliness of protest issue to address in this decision. Based on the evidence, the arguments of the employer, and the law regarding the issue of refusing an offer of work, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Was the claimant able to and available for work as of September 11, 2006?

Did the claimant refuse an offer of suitable work without good cause?

**FINDINGS OF FACT:**

The claimant registered to work with the employer. The employer understood the claimant preferred first-shift work and light production work. The employer assigned the claimant to a job at Color West, a printing business, on October 15, 2005. The claimant earned \$8.00 an hour at this job. The claimant completed this job on August 24, 2006.

On September 11, 2006, the employer contacted the claimant about a first-shift job at Mrs. Clarks, a juice production business. The job paid \$8.00 an hour and was an on-going job. The claimant told the employer she would have to get to the employer about this job offer. The claimant did not again contact the employer about this job offer.

On September 20, 2006, the employer talked to the claimant about another printing job. This was a second-shift job that paid \$8.00 an hour. The claimant declined this job because she did not have child care during these hours.

The claimant established a claim for unemployment insurance benefits during the week of September 10, 2006. The claimant's average weekly earning during her base period is \$250.47. The claimant has not received any benefits since she filed her claim.

#### **REASONING AND CONCLUSIONS OF LAW:**

Before a claimant can be disqualified for refusing an offer of suitable work, the claimant must be able to and available for work. 871 IAC 24.24(4). Since the claimant did not participate in the hearing, it is not known why she did not contact the employer about the September 11 job as she indicated she would. A claimant has the burden to establish she is not able to or available for work. Iowa Code section 96.4-3. It is presumed the claimant is able to and available for work as of September 11, 2006.

A claimant is not qualified to receive unemployment insurance benefits if she refuses an offer of suitable work without good cause. Iowa Code section 96.5-3-a. The wages offered for the September 11 job were suitable. The claimant had previously worked in light industrial jobs and preferred first-shift jobs. These factors indicate the job was suitable for the claimant. The claimant's failure to call the employer about the September 11, 2006 job offer amounts to a refusal to accept the employer's job at Mrs. Clarks. Since the claimant did not participate in the hearing, it is not known why she declined this suitable job offer. A preponderance of the evidence indicates refused an offer of suitable work without good cause. Therefore, the claimant is not qualified to receive benefits as of September 10, 2006.

#### **DECISION:**

The representative's October 3, 2006 decision (reference 07) is reversed. The claimant declined the employer's September 11, 2006 suitable job without good cause. The claimant is

disqualified from receiving unemployment insurance benefits as of September 10, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs