

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA L RILEY
Claimant

APPEAL NO. 10A-UI-01489-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

**Original Claim: 10/25/09
Claimant: Respondent (2-R)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

Temp Associates filed an appeal from a representative's decision dated January 25, 2010, reference 03, which held that no disqualification would be imposed regarding Angela Riley's refusal of work. After due notice was issued, a hearing was held by telephone on March 10, 2010. The employer participated by Jenny McNeil, Account Manager. Ms. Riley did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Ms. Riley refused an offer of suitable work from Temp Associates.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Temp Associates contacted Ms. Riley by telephone on December 1, 2009 and offered her a long-term assignment with Lance Private Brands. The assignment could have led to regular, full-time employment with Lance Private Brands. The job was for 40 hours each week and paid \$8.90 per hour. Ms. Riley declined the offer and indicated she was not available.

Ms. Riley filed a claim for job insurance benefits effective October 25, 2009. The average weekly wage paid to her during that quarter of her base period in which her wages were highest was \$364.85. She received a total of \$2,814.93 on her regular claim for the period November 29, 2009 through February 27, 2010. She filed a claim for extended benefits effective February 28, 2010 and has received a total of \$900.00 on the extended claim.

REASONING AND CONCLUSIONS OF LAW:

An individual who refuses an offer of suitable work is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. The work offered to Ms. Riley on December 1 did not require any skills or training that she did not already have. The work was offered during the sixth week after she filed her claim for job insurance benefits. Therefore, the work had to pay at

least 75 percent of the average weekly wage paid to her during that quarter of her base period in which her wages were highest. In other words, the job had to pay at least \$273.64 per week in order to be considered suitable work.

The work offered to Ms. Riley on December 1 paid \$356.00 per week (40 hours x \$8.90/hour). Because the wages offered exceeded the amount required by law, the work was suitable work within the meaning of the law. Ms. Riley did not participate in the hearing to explain why she declined the work. It is true that she told the employer she was not available. However, this is not enough information to determine whether she had good cause for the refusal. Inasmuch as the evidence of record does not establish any good cause for the refusal, benefits are denied as of the Sunday of the week in which the refusal occurred, November 29, 2009.

Ms. Riley has received benefits since the refusal of work. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated January 25, 2010, reference 03, is hereby reversed. Ms. Riley refused an offer of suitable work on December 1, 2009. Benefits are denied effective November 29, 2009 until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Riley will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw