

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNA J LEWIS

Claimant

APPEAL NO. 13A-UI-06636-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL

Employer

OC: 05/12/13

Claimant: Respondent (1)

Section 96.5-3-a - Failure to Accept Suitable Work

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 28, 2013, reference 01, that concluded the claimant was not subject to disqualification for failing to accept work. A telephone hearing was held on June 19, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Deb Miller participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant fail to accept an offer of suitable work without good cause?

Was the claimant able to and available for work?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant started working for the employer in April 2011. She had a long-term assignment at Sioux Bee Honey from August 12, 2011, to October 19, 2012. She worked a dayshift job of up to 37 hours per week at an hourly rate of pay of \$8 per hour. She also worked a one-day assignment with Lite-Form International on October 31.

On November 8, 2012, the employer offered the claimant a laborer job in South Sioux City, Nebraska, at Goodwill Industries. The rate of pay was \$7.75 per hour for 40 hour of work. The claimant declined the work because she was apprehensive about crossing the Missouri River bridge to South Sioux City because it is under construction.

On December 10, 2012, the claimant declined a full-time job offer as a laborer at Interbake Foods made. The rate of pay is unknown. She was initially offered a dayshift job, but declined the job because it involved night shift or graveyard shift.

On January 28, 2013, the claimant declined a job as a laborer at Royal Canin in North Sioux City, South Dakota, because it involved a night shift. The rate of pay for the job is unknown.

There were times in March when the claimant was offered a one-day assignment at the Tyson Event Center that she declined.

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 12, 2013. Her average weekly wage based on her highest quarter of earnings in her base period was \$223. The claimant did not have an unemployment claim in effect when the offers of work were made as set forth above. She has not declined any offers of work since May 12, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

Iowa Code Section 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....

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.

The unemployment rule 871 IAC 24.24(8) provides:

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.

The claimant is not subject to disqualification because the offers of work were all made before the beginning of the claimant's benefit year on May 12, 2013. In addition, there was vague information about many of the offers of work made to the claimant. The law requires there to be a bona fide offer of work with details, such as the rate of pay, hours, and duration of the job.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. There is no evidence to show that as of May 12, 2013, the claimant was not available for work or not actively looking for work.

DECISION:

The unemployment insurance decision dated May 28, 2013, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs