

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ETHEL K SCHWARTZ
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DUBUQUE RACING ASSOCIATION LTD
PO BO 3190
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MERLE DUEHR JR
UNITED STEELWORKERS
1610 GARFIELD
DUBUQUE IA 52001-2241

Appeal Number: 04A-UI-00027-DWT
OC 11/09/03 R 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

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.

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 are based.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-3-a – Refusal of Offer of Work

STATEMENT OF THE CASE:

Dubuque Racing Association Ltd. (employer) appealed a representative's December 24, 2003 decision (reference 04) that concluded Ethel K. Swartz (claimant) was qualified to receive benefits even though she declined the employer's offer to return to work on November 25, 2003. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 26, 2004. The claimant participated in the hearing with Merle Duehr, Jr., a union representative. Tammy Schnee, the human resource generalist, and Tom Hiatt, the director of security, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant still qualified to receive benefits after she declined the employer's offer to return to a part-time security office position?

FINDINGS OF FACT:

The claimant started working for the employer on September 29, 2002. The claimant worked 36 hours as a security guard. The claimant was laid off for lack of work on November 10, 2003.

During the week of November 9, 2003, the claimant established a claim for unemployment insurance benefits. On November 24, the employer sent the claimant a certified letter offering her a part-time job, 24 hours a week, as a security guard. The claimant received the letter on November 25. She talked to Hiatt on November 25. Pursuant to the labor agreement, the claimant exercised her right to decline the employer's offer to return to part-time employment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she refuses an offer of suitable work without good cause. Iowa Code §96.5-3-a. This law defines suitable to mean that work offered during the first five weeks of unemployment must be 100 percent of the claimant's highest quarterly wages during her base period. Since the claimant had previously worked 36 hours a week and the employer offered her 24 hours a week, the part-time work the employer offered her on November 25 was not suitable for the claimant as of November 25, 2003.

Even though the claimant **may** have been able to work more than 24 hours a week if she had accepted the part-time job and successfully bid on times when other employees called in sick or went on vacation, the employer only guaranteed her 24 hours of work a week. Anything beyond 24 hours was speculative.

The claimant declined the employer's offer of work because it was not suitable for her. As of November 23, 2003, the claimant remains qualified to receive unemployment insurance benefits.

DECISION:

The representative's December 24, 2003 decision (reference 04) is affirmed. The claimant declined the employer's offer of work with good cause because it was not suitable for the claimant as of November 25, 2003. As of November 23, 2003, the claimant remains qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements.

dlw/b