

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHEYANNE N WEBB
Claimant

APPEAL NO. 12A-UI-13007-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 09/16/12
Claimant: Appellant (2-R)

Iowa Code Section 96.5(3)(a)(a) – Refusal of Suitable Work

STATEMENT OF THE CASE:

Cheyanne Webb appealed from an unemployment insurance decision dated October 25, 2012, reference 02, that denied benefits based on an agency conclusion that she had refused an offer of suitable work on September 17, 2012 without good cause. A telephone hearing was scheduled for November 30, 2012. Ms. Webb did not respond to the hearing notice instructions and did not participate in the hearing. The employer also did not respond to the hearing notice instructions and did not participate in the hearing. In light of the parties' failure to appear for the hearing, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision based on the content of the agency's administrative file. The administrative law judge notes that the parties addressed both a September 17, 2012 purported offer of work and a September 24, 2012 purported offer of work during the fact-finding interview that led to the October 25, 2012, reference 02 decision.

ISSUE:

Whether Ms. Webb refused an offer of suitable work in September 2012 without good cause.

FINDINGS OF FACT:

Cheyanne Webb established a claim for unemployment insurance benefits that was effective September 16, 2012. Ms. Webb received benefits for the period of September 16, 2012 through the benefit week that ended October 20, 2012. Benefits ended in connection with entry of the October 25, 2012, reference 02, decision that denied benefits.

The employer is a temporary employment agency. On September 17, 2012, Express Services contacted Cheyanne Webb for the purpose of offering her an assignment at Windsor Windows. It is unclear whether the employer told Ms. Webb the wage offered. The employer told Ms. Webb that the work hours would be 6:30 a.m. to 2:30 p.m. Ms. Webb had most recently performed work for the employer in an assignment at Anderson Windows. Ms. Webb had worked 7:00 a.m. to 3:30 p.m. in the Anderson Windows assignment. On September 17, 2012, Ms. Webb told the employer she could not accept the assignment at Windsor Windows because her day care did not open until 6:30 a.m., which would prevent her from being able to appear for a shift that started at 6:30 a.m.

On September 24, 2012, Express Services contacted Ms. Webb for the purpose of offering her an assignment at Anderson Erickson. The employer told Ms. Webb that the wage would be \$18.00 per hour and that Ms. Webb could choose her shift. AE needed replacement workers while their regular employees were on strike. Ms. Webb declined the assignment, indicating that she was uncomfortable with crossing a picket line.

REASONING AND CONCLUSIONS OF LAW:

A claimant who fails to accept an offer of suitable employment without good cause is disqualified for benefits until the claimant earns 10 times her weekly benefit amount from insured work. See Iowa Code section 96.5(3)(a).

Iowa Administrative Code rule 871 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work ... it must first be established that a bona fide offer of work was made to the individual by personal contact ... and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

Child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases. Iowa Admin. Code section 871 IAC 24.24(4).

The content of the administrative file fails to indicate whether the employer told Ms. Webb on September 17, 2012, the wage for the proposed assignment at Windsor Windows. In light of that omission, the administrative law judge concludes there was no bona fide offer of employment made on September 17, 2012. Even if there had been a bona fide offer of employment on September 17, 2012, Ms. Webb had good cause for refusing such an offer in light of her child care issues. See Iowa Admin. Code section 871 IAC 24.24(4). A reasonable person would expect it to be more difficult for a person to find childcare for the early morning hours than slightly later in the day.

In determining what constitutes suitable work, the department shall consider, among other relevant factors, whether the position offered is due directly to a strike, lockout, or other labor dispute. See Iowa Admin. Code section 871 IAC 24.24(15)(j).

The administrative law judge concludes that there was a bona fide offer of employment made on September 24, 2012 with regard to the proposed AE assignment. However, the work was not suitable. The assignment was available because the regular AE employees were on strike. The proposed assignment would require Ms. Webb to cross a picket line. See Iowa Admin. Code section 871 IAC 24.24(15)(j).

Ms. Webb was not disqualified for benefits in connection with the September 17, 2012 matter or the September 24, 2012 matter. Ms. Webb is eligible for benefits, provided she is otherwise eligible. In light of Iowa Admin. Code section 871 IAC 24.24(4), this matter will be remanded to the Claims Division for determination of whether Ms. Webb has been able to work and available for work since she established the claim for benefits that was effective September 16, 2012.

DECISION:

The Agency representative's October 25, 2012, reference 02, decision is reversed. There was no bona fide offer of employment made on September 17, 2012. If there had been, the claimant had good cause to refuse such an offer. There was a bona fide offer of work made on September 24, 2012, but the work offered was not suitable. The claimant is eligible for benefits, effective September 16, 2012, provided she is otherwise eligible. This matter is remanded to the Claims Division for determination of whether the claimant has been able to work and available for work since she established the claim for benefits that was effective September 16, 2012.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs