

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

EVERLINA ORR
Claimant

TEMP ASSOCIATES-IOWA INC
Employer

APPEAL NO. 21A-UI-13010-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (1)

Iowa Code § 96.5-3-a – Work Refusal
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 21, 2021, reference 03, which held claimant eligible for unemployment insurance benefits due to a refusal to accept work. After due notice, a telephone conference hearing was scheduled for and held on August 4, 2021. Claimant participated personally. Employer participated by Sue Watkins.

ISSUE:

Whether claimant refused to accept a suitable offer of work?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Employer stated that they made an offer of work to the claimant on December 17, 2020. That offer was for claimant to work at the same place where she had been working (Skyline) for the same wages she had been receiving prior to the layoff. Claimant denied that this offer was ever made. Employer stated that claimant told them that she just wanted to go on SSI disability because of the pain in her hands. Again, claimant denied that this discussion took place.

Employer then stated that there was a note from a discussion with claimant in April 2021. At that time employer said that claimant refused a placement because she was waiting to go back to Skyline. When confronted about the seeming contradiction – that claimant refused the offer to Skyline (where she'd worked for many years) and then stated that she only wanted to go back to Skyline when told of other offers – employer stated to ignore the note. Claimant denied that any offer to return to Skyline had taken place.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

The only question pending before the judge is whether claimant had been offered other work with employer. This comes down to a matter of credibility. Employer's notes as to discussions with claimant contradict themselves while claimant was consistent in stating that she wished to continue with her work. As it is more believable that employer did not offer claimant a position back with Skyline, claimant did not refuse a reasonable offer of work. Benefits are allowed.

DECISION:

The decision of the representative dated May 21, 2021, reference 03 is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

August 9, 2021
Decision Dated and Mailed

bab/lj