

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY A HEIN
Claimant

APPEAL NO. 09A-UI-15535-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 12-07-08
Claimant: Appellant (2)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 6, 2009, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on November 16, 2009. The claimant did participate. The employer did participate through Holly Burtness, Staffing Consultant.

ISSUE:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: On June 16, 2009 Holly Burtness spoke to the claimant on the telephone and offered her a job at the TOPS facility where the claimant had previously been assigned and worked. The claimant told Ms. Burtness that she was thinking of moving to Mexico with her fiancé in a week or two but was not sure. Because the assignment was an ongoing assignment, Ms. Burtness rescinded the offer she made to Ms. Hein because she wanted to look for an employee who would be willing to work on a more permanent basis.

REASONING AND CONCLUSIONS OF LAW:

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

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, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening 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.

The administrative law judge concludes that no offer of work was actually made to the claimant once she told Ms. Burtness that she might be moving out of state. When Ms. Burtness learned that the claimant could be moving, she rescinded any offer of employment. Since no offer of employment was made to the claimant, the administrative law judge concludes that the claimant did not refuse a suitable offer of work. The claimant was and is able to and available for work. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The October 6, 2009, reference 02, decision is reversed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs