

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LESLIE M MONDRAGON
Claimant

APPEAL NO. 11A-UI-11507-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAPTIVE PLASTICS INC
Employer

OC: 05/29/11
Claimant: Respondent (1-R)

Section 96.5-3-a – Offer of Suitable Work

STATEMENT OF THE CASE:

Captive Plastics, Inc. filed a timely appeal from a representative's decision dated August 22, 2011, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on September 26, 2011. Although the claimant provided a telephone number, she was not available at the telephone number provided. Two messages were left. The employer participated by Ms. Sandy Simpson, Plant Administrator.

ISSUE:

The issue is whether the claimant is subject to a benefit disqualification for refusing suitable work.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Leslie Mondragon began employment with Captive Plastics, Inc. on September 9, 2008 and was employed as a full-time packer. On May 27, 2011, the claimant was temporarily laid off work.

On June 24, 2011, Captive Plastics, Inc. attempted to contact Ms. Mondragon by telephone to recall her to work. When the company's plant administrator was unable to reach Ms. Mondragon by telephone, a letter was sent to the claimant dated June 27, 2011 advising the claimant of the recall to work calling her back to work on June 27, working 2:50 p.m. until 11:00 p.m. The letter was sent to the claimant's address of record by ordinary mail. Ms. Mondragon did not respond to the employer's efforts to make communications about recalling her to work.

Later on June 30, 2011, Ms. Mondragon called the employer indicating that she was quitting employment because she had found new work.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the employer made a bona fide offer of suitable work which was refused by the claimant. It does not.

871 IAC 24.24(1) requires in determining whether a claimant failed to accept suitable work it must be established that a bona fide offer of work was made to the individual by personal contact or, in the case of a recall to work, by personal contact or registered letter.

In the case at hand, the evidence establishes that Ms. Mondragon was not sent a registered letter recalling her to work and that no personal contact was made by Captive Plastics, Inc. with Ms. Mondragon recalling her to work. The evidence in the record also shows that the information that was sent to the claimant indicated that she was being called back to second shift work and that the communication did not indicate that the change to second shift was temporary.

Based upon the application of the facts of the law, the administrative law judge must conclude the claimant did not refuse to accept suitable work. The evidence in the record does, however, indicate that Ms. Mondragon may have been categorized as attached to this employer and not required to seek work from other employers. The issue of the claimant's attachment to Captive Plastics, Inc. and the claimant's availability for work is, therefore, remanded to the UIS Division for investigation and determination.

DECISION:

The representative's decision dated August 22, 2011, reference 01, is affirmed. The claimant did not refuse a bona fide offer of suitable work.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs