

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIDGET P DOCHTERMAN
Claimant

APPEAL NO. 06A-UI-10162-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROSS MARKETING INC
Employer

**OC: 07/30/06 R: 03
Claimant: Appellant (1)**

Section 96.4-3 - Able to and Available for Work
Section 96.5-3-a - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 9, 2006, reference 01, that concluded she failed to accept an offer of suitable work without good cause. A telephone hearing was held on November 1, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Shannon Schmidt participated in the hearing on behalf of the employer.

ISSUES:

Was the claimant able to and available for work?
Did the claimant fail to accept an offer of suitable work without good cause?

FINDINGS OF FACT:

The claimant worked part time for the employer as a telephone service representative from April 4, 2005, to August 1, 2006. She worked about 24 hours per week at a rate of pay of \$9.00 per hour. She was laid off on August 1, 2006, but was told that she could be recalled to work within a month or two. The claimant worked various shifts while she worked for the employer, including working an evening shift and Saturday shift. The employer had previously accommodated the claimant's school schedule.

On September 7, 2006, the claimant was recalled to work. She was informed that she would be working in the same type of work at the same rate of pay. The rate of pay is comparable to the going rate of pay for similar work in the Cedar Rapids area. The work hours were evenings from 6:00 p.m. to 10:00 p.m., Monday through Friday, and 9:00 a.m. to 3:00 p.m. on Saturday.

The claimant was attending school with one evening class, and has children aged 11 years, 10 years, and 3 years. The claimant declined the evening work offered and requested daytime work because of her class and the expense of getting a babysitter for her children for evening work. The claimant did not ask whether she could take time off to attend the class or make any attempt to find a babysitter before informing the employer's representative that she was not interested in the job.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. Although the claimant had some restrictions on her availability, the evidence does not show the restrictions were to the extent that she was unavailable for work.

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

Iowa Code section 96.5-3-a provides:

An individual shall be disqualified for benefits:

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. ...

a. 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:

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

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

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

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

The work offered the claimant meets all the suitability factors listed above. She cannot argue that the work was unsuitable because it was evening work because she worked in the evenings before. The next question is whether the claimant had good cause to fail to accept this offer of work because it conflicted with her class schedule and she did not have affordable daycare available for evening work.

Good cause includes real and substantial personal reasons that would cause a reasonable person to decline the work offered and are consistent with the genuine desire to work and be self-supporting. The evidence does not establish good cause for declining the job. The claimant declined the job without asking if the employer would accommodate her school

schedule and without making an effort to find a evening babysitter. Her actions are not consistent with a genuine desire to return to work.

DECISION:

The unemployment insurance decision dated October 9, 2006, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs