

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHANIE L MARTIN**  
Claimant

**APPEAL NO. 10A-UI-14177-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY COMMUNITY SCHOOL**  
Employer

**OC: 07/04/10  
Claimant: Respondent (1)**

Section 96.5-3-a - Failure to Accept Suitable Work

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated October 5, 2010, reference 05, that concluded the claimant was not subject to disqualification for failing to accept work. A telephone hearing was held on November 10, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. David Winkelmann, Attorney at Law, participated in the hearing on behalf of the employer with witnesses, Tom Anderson and Joy Burr. Exhibits One and Two were admitted into evidence at the hearing.

**ISSUE:**

Did the claimant fail to accept an offer of suitable work without good cause?

**FINDINGS OF FACT:**

The claimant worked full time for the employer from October 18, 1995, to March 31, 2010. After March 31, 2010, the claimant was on Family and Medical Leave Act (FMLA) leave until the end of the school year.

The claimant resigned from employment on July 28, 2010, because she had been offered only a half-time position for the 2010-11 school term.

On August 18, 2010, the superintendent of schools spoke to the claimant by phone about a full-time position they would create that would consist of working half time as a secretary for the guidance counselor and the rest of the time as a lunch room technician and copier in the copying room. The claimant asked what the job would pay and what benefits would be provided for the job. The superintendent did not know the answers and said he would have to get back to her after speaking with the business manager. The claimant said she would need some time to decide. There was no deadline established for a decision.

Neither the superintendent or the business manager ever got back to the claimant about the pay and benefits. On August 23, 2010, the claimant emailed the superintendent stating that she did not feel she had received enough information about the position to make an informed decision

and she did not think the job was for her based on the limited information she had received. The employer considered the claimant to have declined the position.

**REASONING AND CONCLUSIONS OF LAW:**

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 § 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.

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.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I conclude that no bona fide offer of work was made

because a bona fide offer of work includes information about pay and benefits, which the superintendent never provided as he said he would. It is the employer's burden to establish a bona fide offer of work was made.

The claimant was disqualified due to being unavailable for work effective July 4, 2010. This disqualification is unaffected by this decision.

**DECISION:**

The unemployment insurance decision dated October 5, 2010, reference 05, is affirmed. The claimant was not subject to disqualification for failing to accept work.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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