

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**TINA L WOLFE**  
Claimant

**APPEAL 22A-UI-15986-DZ-T  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**CONIFER REVENUE CYCLE SOLUTIONS**  
Employer

**OC: 08/29/21  
Claimant: Appellant (2)**

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Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Admin. Code r. 871-24.24(15) – Suitable Work

**STATEMENT OF THE CASE:**

Tina L. Wolfe., the claimant/appellant, filed an appeal from the Iowa Workforce Development (IWD) August 8, 2022, (reference 08) unemployment insurance (UI) decision that denied REGULAR (state) UI benefits because IWD records indicated that on July 3, 2022 Ms. Wolfe refused to accept suitable work with the employer. The parties were properly notified about the hearing. A telephone hearing was held on September 12, 2022. Appeals 22A-UI-15986-DZ-T, and 22A-UI-16309-DZ-T were heard together and formed one hearing record. Ms. Wolfe participated personally. The employer did not participate in the hearing. The administrative law judge took official notice of the administrative record. Claimant's Exhibit A was admitted as evidence.

**ISSUE:**

Is Ms. Wolfe able to and available for work?  
Was a suitable offer of work made to Ms. Wolfe?  
If so, did she decline the offer and was it for a good cause reason?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Wolfe filed her initial claim for benefits effective August 29, 2021. Ms. Wolfe reopened her claim on May 22, 2022 because her job at employer Employer's Mutual Casualty Co dba EMC Insurance had ended. Ms. Wolfe worked at EMC as a full-time administrative assistant/support associate 4 at an hourly rate of \$16.75 per hour.

In mid-June 2022, Ms. Wolfe applied for a full-time patient access representative 2 position with this employer. The job posting did not list the specific location at which Ms. Wolfe might work. The job required applicants to have some basic medical knowledge. Ms. Wolfe has no medical or hospital training or experience. Ms. Wolfe applied for the job with the hope of expanding her knowledge base. Ms. Wolfe participated in an interview with the employer. The employer

asked Ms. Wolfe about her work location preference, and she responded that she preferred to work in the western part of the Des Moines, Iowa metro area and not downtown.

On Monday, June 20, the employer offered Ms. Wolfe the job via email at a pay rate of \$16.50 per hour and a start date of July 5. The employer did not list the work location in the offer. Soon thereafter, Ms. Wolfe contacted IWD and asked what would happen if she declined the job based on pay. The IWD representative told Ms. Wolfe that she could decline the job if the offer was for less than \$770.00 per week, which translates to \$19.25 per hour for 40 hours. On, or about, June 22, Ms. Wolfe accepted to the employer's offer and asked the employer where she would be working. The employer told Ms. Wolfe that they would get back to her with the work location.

The following Monday, June 27, the employer told Ms. Wolfe that the job would be at the employer's downtown location in the emergency room of a hospital. Ms. Wolfe did not want to work in a hospital due to her concerns about getting sick, because she has a weak stomach and because she has no medical or hospital training or experience. Ms. Wolfe responded to the employer that she did not feel comfortable with the job location in downtown and asked the employer if she could work in another location. The employer responded that the only jobs they had were jobs in hospitals and offered to move Ms. Wolfe's start date to July 11. At some during the week, Ms. Wolfe called IWD again. The IWD representative told Ms. Wolfe that if she does not have hospital experience or if she thought the job was not suitable for her, she (Ms. Wolfe) could decline the offer. Ms. Wolfe declined the job the following Monday, July 3 because it was not a good fit for her due to her lack of knowledge or training in the medical field.

The week of July 3-9, 2022 was the seventh week since Ms. Wolfe became unemployed and reopened her claim. Ms. Wolfe's average weekly wage (AWW) is \$2,561.77, and 70 percent of her AWW is \$1,793.24.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Ms. Wolfe did refuse a suitable offer of work, but he did so for good cause.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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 week of unemployment.

(b) Ninety percent, if the work is offered during the second through the third week of unemployment.

(c) Eighty percent, if the work is offered during the fourth through the fifth week of unemployment.

(d) Seventy percent, if the work is offered during the sixth through the eighth week of unemployment.

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

Iowa Admin. Code r. 871-24.24(15) provides:

(15) Suitable work. In determining what constitutes suitable work, the department shall consider, among other relevant factors, the following:

a. Any risk to the health, safety and morals of the individual.

b. The individual's physical fitness.

c. Prior training.

d. Length of unemployment.

e. Prospects for securing local work by the individual.

- f. The individual's customary occupation.
- g. Distance from the available work.
- h. Whether the work offered is for wages equal to or above the federal or state minimum wage, whichever is higher.
- i. Whether the work offered meets the percentage criteria established for suitable work which is determined by the number of weeks which have elapsed following the effective date of the most recent new or additional claim for benefits filed by the individual.
- j. Whether the position offered is due directly to a strike, lockout, or other labor dispute.
- k. Whether the wages, hours or other conditions of employment are less favorable for similar work in the locality.
- l. Whether the individual would be required to join or resign from a labor organization.

Cases of "refusal of suitable work without good cause" are subject to a two-step analysis. A determination must be made regarding whether the offer was suitable, and if it was, whether claimant had good cause for refusal. Iowa Admin. Code 871—24.24(3). The employer has the burden of proving the offer was suitable. If the offer was suitable, the claimant has the burden to establish the offer was refused for "good cause." "Good cause for refusing work must involve circumstances which are real, substantial, and reasonable, not arbitrary, immaterial, or capricious." *Norland v. IDJS*, 412 N.W.2d 904, 914 (Iowa 1987).

In this case, the employer made an offer of work to Ms. Wolfe in her seventh week of unemployment. The employer offered to pay Ms. Wolfe less than more than 70 percent of her average weekly wage. Furthermore, the employer's offer was for work for which Ms. Wolfe had no prior training or experience. The offer was not suitable. Ms. Wolfe declined the job when her hope to expand her knowledge base met the reality that she had no experience or training for the job. Since the employer's offer was not suitable, benefits are allowed.

**DECISION:**

The August 8, 2022, (reference 08) unemployment insurance decision is REVERSED. The employer's June 20, 2022 offer of work was not a suitable offer of work for Ms. Wolfe. Benefits are allowed.



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Daniel Zeno  
Administrative Law Judge

October 6, 2022  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

**1. Appeal to the Employment Appeal Board** within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

**2.** If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

**1. Apelar a la Junta de Apelaciones de Empleo** dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

**2.** Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.