

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEA A CLEMENSON
Claimant

APPEAL 17A-UI-10697-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST PROFESSIONAL STAFFING LLC
Employer

**OC: 08/06/17
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.5(3)A – Failure to Accept Work

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the October 17, 2017 (reference 06) unemployment insurance decision that found claimant was eligible to receive unemployment insurance benefits because the job offered on October 3, 2017 did not provide wages of at least 100 percent of her average weekly wage. The parties were properly notified of the hearing. A telephone hearing was held on November 7, 2017. The claimant, Lea A. Clemenson, participated personally. The employer, Midwest Professional Staffing LLC, participated through witnesses Liz Wilkinson and Michele Schoop. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was a suitable offer of work made to the claimant?
If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed a claim for unemployment insurance benefits with an effective date of August 6, 2017 and an additional claim date of September 24, 2017. On October 3, 2017, Midwest Professional Staffing LLC offered a job to claimant to work full-time (40 hours per week) Monday through Friday. Her job title would be a word processor and she would be placed on assignment at Briggs. She would earn \$15.00 per hour.

Claimant's unemployment insurance benefits records establish that her average weekly wage for purposes of unemployment insurance benefits is \$663.43. This job was offered to claimant during her second week since she filed her most recent additional claim for benefits. The average weekly wage for the Midwest Professional Staffing LLC job offer would have been \$600.00, which is less than claimant's unemployment insurance benefits average weekly wage of \$663.43. A claimant's average weekly wage for purposes of unemployment insurance

benefits is determined by taking the wages in claimant's highest base period quarter and dividing by 13.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the job offered to claimant on October 3, 2017 did not provide wages of at least 100 percent of her average weekly wage. Claimant is not disqualified due to her refusal of this job offer.

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. 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 five weeks of unemployment.

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

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

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

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

The job offer was made during claimant's second week of filing for benefits following her additional claim date of September 24, 2017. The job offered to claimant on October 3, 2017 did not provide at least 100 percent of claimant's average weekly wage of \$663.43. As such, claimant is not disqualified from receipt of unemployment insurance benefits based upon her refusal of this job offer.

DECISION:

The October 17, 2017 (reference 06) unemployment insurance decision is affirmed. The job offered to claimant on October 3, 2017 did not provide at least 100 percent of claimant's average weekly wage. Benefits are allowed, *provided claimant is otherwise eligible*.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs