

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MICHELLE L CLINTON
Claimant

APPEAL NO: 19A-UI-03944-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KARDES INC
Employer

OC: 11/11/18
Claimant: Respondent (1-R)

Section 96.5(3)a – Work Refusal
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 6, 2018, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 7, 2019. The claimant did not respond to the hearing notice and did not participate in the hearing. Dean Cox and Michael Bohlken, Owners, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

ISSUE:

The issues are whether the employer's appeal is timely and whether the claimant refused a suitable offer of work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A decision allowing benefits to the claimant was mailed to the employer's last known address of record on December 6, 2018. The employer received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by December 17, 2018. The appeal was not filed until May 13, 2019, which is after the date noticed on the disqualification decision. The employer contacted the department when it received the representative's decision and asked if its account was subject to charge under this decision and was assured it was not. Consequently, relying on that information, the employer did not file an appeal until it noticed on its May 9, 2019, statement of charges that it was being charged for benefits for the claimant. At that time it filed an appeal of the representative's decision.

The employer made an offer of work to the claimant on February 23, 2018. The claimant did not have a valid claim for unemployment insurance benefits at the time.

There are issues surrounding the claimant's separation from this employer that have not yet been heard or adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not refuse a suitable offer of work.

Iowa Admin. Code r. 871-24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The offer of work was made to the claimant February 23, 2018. The claimant did not have a valid claim for unemployment insurance benefits at that time. Consequently, the administrative law judge does not have jurisdiction to evaluate the offer or refusal of work since the offer of employment took place outside of the benefit year. Therefore, benefits are allowed.

The issues surrounding the claimant's separation from this employer are remanded to the Benefits Bureau for an initial hearing and adjudication.

DECISION:

The December 6, 2018, reference 01, decision is affirmed. The employer's appeal is timely. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible. The issue of the claimant's separation from this employer is remanded to the Benefits Bureau for an initial hearing and adjudication.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn