

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARIA R SCHULTHEIS
Claimant

APPEAL NO. 21A-UI-10959-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES IOWA INC
Employer

OC: 07/05/20
Claimant: Respondent (5)

Iowa Code Section 96.5(3)(a) – Refusal of Suitable Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 2, 2021, reference 02, decision that allowed benefits to the claimant, provided she met all other eligibility requirements, based on the deputy's conclusion that no offer of employment with Temp Associates – Iowa, Inc. was made on May 1, 2021. After due notice was issued, a hearing was held on July 6, 2021. The claimant did not provide a telephone number for the hearing and did not participate. Susan Watkins represented the employer. Exhibit 1 was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and DBIN.

ISSUES:

Whether the claimant refused an offer of suitable work without good cause on or about May 1, 2020.

Whether there was a claim for unemployment insurance benefits in effect at the time of the purported work refusal.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective July 5, 2020. There was no benefit claim in effect prior to July 5, 2020. The claimant last worked for this employer in a part-time, temporary work assignment as a school aide at Clinton Community School District. The assignment was for four to five hours a week and paid \$8.82. On or about April 22, 2020, the employer spoke with the claimant and told her that a similar summer position was available and would provide at least 20 hours per week with similar pay. The claimant told the employer she would get back to the employer if she was interested. The claimant did not make further contact with the employer, but contacted the Clinton Community School District onsite supervisor on July 1, 2021 to advise that she would not be available for additional work with the District.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(3)(a) provides as follows:

Causes for disqualification.

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.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Iowa Admin. Code r. 871-24.24(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. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

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.

Because the purported offer occurred prior to the July 5, 2020 start of the claimant's benefit year, no disqualification may enter based on said offer. The administrative law judge need not further consider whether a bona fide offer was made or whether a definite refusal occurred.

DECISION:

The April 2, 2021, reference 02, decision is modified without change to the eligibility or liability determination. The purported job offer preceded the effective start date of claim year. No disqualification may enter based on alleged offer or alleged refusal. The claimant is eligible for benefits, provided she meets all other eligibility requirements.



James E. Timberland
Administrative Law Judge

July 15, 2021
Decision Dated and Mailed

jet/kmj