

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L MAYER
Claimant

APPEAL NO. 14A-UI-11241-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHILDREN PREVAIL
Employer

OC: 08/03/14
Claimant: Respondent (1)

Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated October 21, 2014, reference 04, which held claimant eligible to receive unemployment insurance benefits finding that the claimant did not accept an offer of work with Children Prevail on September 22, 2014 because the job was not suitable. After due notice was provided, a telephone hearing was held on November 18, 2014. Claimant participated. The employer participated by Ms. Gidget DeSotel, Owner/Director, Brionna DeSotel and Mary Martin. Employer's Exhibits A, B, C, and D were received into evidence.

ISSUE:

The issue is whether the claimant refused an offer of suitable work and if so, whether the claimant had good cause to do so.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Jennifer Mayer was employed by Children Prevail as a part-time child care provider and was paid by the hour. A job separation took place on July 25, 2014 because of a dispute over working hours and the desire by the claimant to seek new employment.

On September 22, 2014, the employer sent a certified letter to the claimant offering her the same type of work and the same pay and number of working hours that the claimant had had in the past when employed by the company. Ms. Mayer did not respond to the offer of work because she had found new employment at that time and was no longer unemployed. Claimant also noted that the reported time specified in the employer's letter appeared to indicate that the claimant was going to be required to work the same working hours that were previously unacceptable to her. For these reasons the claimant did not respond to the employer's offer of work.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes good cause for failing to accept an offer of suitable work. It does.

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(4) provides:

(4) Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code § 96.4(3). Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

Iowa Admin. Code r. 871-24.24(7) provides:

(7) Gainfully employed outside of area where job is offered. Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

In the case at hand, the evidence in the record establishes that Children Prevail made an offer of work to Ms. Mayer on September 22, 2014. The employer offered the same type of work, pay and number of working hours as the claimant had previously worked for the employer in the past, although the notice to the claimant appeared to indicate that the hours offered were the same hours that were previously unacceptable to the claimant. Ms. Mayer did not respond to the offer, however, because she had already accepted other employment at that time and was no longer unemployed.

The administrative law judge concludes that the claimant has established a good cause reason for refusing the offer of work made to her on September 22, 2014. Claimant had accepted other employment, was no longer unemployed, and was not seeking further work. Good cause for failing to accept the offer of work has been shown. Claimant is not subject to a benefit disqualification for refusing an offer of suitable work.

DECISION:

The representative's decision dated October 21, 2014, reference 04, which held claimant eligible to receive unemployment insurance benefits is affirmed. Claimant has established good cause for failing to accept the offer of work. Claimant is not subject to a benefit disqualification for refusing suitable work. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs