

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHANNA M DOBBS
Claimant

APPEAL NO. 08A-UI-03587-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF AMES
Employer

OC: 12/30/07 R: 02
Claimant: Respondent (1)

Section 96.5-3-a – Refusal of Suitable Work
Section 96.4-3 – Medically Able to Work

STATEMENT OF THE CASE:

City of Ames filed a timely appeal from an unemployment insurance decision dated April 1, 2008, reference 04, that allowed benefits to Johanna M. Dobbs. After due notice was issued, a telephone hearing was held May 7, 2008 with Ms. Dobbs participating. The employer's scheduled witness was not available when called at the time of the hearing. She contacted the administrative law judge after the record was closed. She missed the hearing because she was on another telephone call.

ISSUES:

Did the claimant refuse a suitable offer of work? Is the claimant medically able to work?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Johanna M. Dobbs is a former bus driver for the City of Ames. After recovering from an injury, the city offered her her same position. Ms. Dobbs declined because she still takes prescription pain medication that would interfere with her ability to drive safely. Ms. Dobbs has returned to employment as of April 21, 2008. She last requested unemployment insurance benefits for the week ending April 19, 2008.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the claimant refused a suitable offer of work. For the reasons which follow, the administrative law judge concludes that she did not.

The evidence establishes that Ms. Dobbs was offered her former position as a bus driver. She declined because, although released to return to work, the release contained the restriction that she use prescription pain killer medication as needed. A reasonable person would decline a job as a bus driver because of the potential adverse impact of the medication on the ability to drive safely. No disqualification shall be imposed as a result of her refusal.

The remaining issue is whether Ms. Dobbs is medically able to work. An individual need not be medically able to work in his or her most recent or customary occupation. One must only establish the ability to work in some job in the individual's local labor market area. The claimant has returned to employment. The administrative law judge finds this conclusive proof that the claimant meets the requirement of being medically able to work in some capacity. Benefits are allowed.

DECISION:

The unemployment insurance decision dated April 1, 2008, reference 04, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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