

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERI OVERBERGEN
Claimant

APPEAL NO. 15A-UI-05291-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

OC: 03/22/15
Claimant: Appellant (1)

Section 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Sheri Overbergen (claimant) appealed a representative's April 24, 2015 (reference 03) decision that concluded she was not eligible to receive unemployment insurance benefits because she refused suitable work with Pella Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing held on May 11, 2015. The claimant participated personally. The employer participated by Stephanie Weaver, Human Resources Business Partner, and Sue Coyle, Service Center Team Leader.

ISSUE:

The issue is whether the claimant refused suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 1, 2000 and at the end of her employment she was working as a part-time employee services representative. The claimant signed for receipt of the employer's handbook. On February 27, 2015, the claimant left work at 1:55 p.m. but recorded on her time card that she left at 2:00 p.m. On March 3 and 4, 2015, the claimant left work at 3:55 p.m. but recorded on her time card that she left at 4:00 p.m. On March 11, 2015, the employer terminated the claimant. The claimant filed for unemployment insurance benefits with an effective date of March 22, 2015.

The claimant appealed the employer's decision. On March 30, 2015, the employer overturned the termination decision and changed the determination to a corrective action letter. On March 30, 2015, the employer offered the claimant a job. She could return to work at the same hours, position, and rate of pay. On March 31, 2015, the claimant said she would return to work if she did not work under her former supervisor. The employer could not meet that request. The claimant declined the option to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant did not accept an offer of suitable work.

Iowa Code § 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. 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:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

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

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

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

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

The work was offered within one week of the claimant's unemployment and was required to provide the claimant wages one hundred percent of those paid to the claimant during the highest quarter of her base period. The evidence establishes that the claimant would have received at least one hundred percent of her average weekly wages during her highest quarter of earnings. All of the claimant's earnings during her base period were from Pella Corporation.

Based on the factors found in Iowa Code Section 96.5-3-a, the work offered to the claimant was suitable work. The claimant is disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's April 24, 2015 (reference 03) decision is affirmed. The claimant is not qualified to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can