

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE R ROBERTS
Claimant

APPEAL NO. 07A-UI-11185-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 10/28/07 R: 02
Claimant: Appellant (2)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Denise R. Roberts (claimant) appealed a representative's November 29, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits because she refused DES Staffing Services, Inc. (employer) offer of suitable work on November 8, 2007. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 18, 2007. The claimant participated in the hearing. Amy McGregor and John Duncan appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant refuse an offer of suitable work for reasons that disqualify her from receiving unemployment insurance benefits?

FINDINGS OF FACT:

After the claimant applied to work for the employer's clients, the employer assigned her to jobs. The most recent assignment the claimant began on October 23, 2006. At this job, the claimant earned \$9.00 an hour. This job was in Nevada at a bindery. The claimant's last day of work at this assignment was October 29, 2007.

The claimant established a claim for unemployment insurance benefits during the week of October 28, 2007. On November 7, Duncan talked to the claimant and offered her a job in Nevada at \$9.00 an hour. The claimant understood the job was in Boone and declined the job offer because she did not want to drive 45 minutes in the winter. On November 8, Duncan talked to the claimant about another job in Nevada. This job paid \$10.00 to \$10.50 an hour. This business wanted someone to start working the next day. The claimant told Duncan she could start this job on Monday. Since the client wanted a worker the next day, Duncan assigned another person to this job. Duncan incorrectly understood the claimant declined the job because her children were home the next day and she did not have anyone to take care of them. Although the claimant indicated she could start working on Monday, she could have worked the next day because her children could have stayed with her mother.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if a claimant refuses an offer of suitable work without good cause. Iowa Code § 96.5-3-a. Even though the claimant and Duncan talked on the phone, they had a communication breakdown. First, the claimant understood the employer offered her a job in Boone that she declined on November 7 because of the distance. The next day, the employer did not understand the claimant accepted this job by indicating she could start work on Monday. The claimant did not realize she would not be assigned to the job if she did not start work the next day. The employer did not fully explain the consequences to the claimant and did not ask that she go to the office to receive more information about the job because the claimant did not indicate she could work the next day.

Based on the evidence presented during the hearing, the facts do not establish that the claimant declined an offer of suitable work. Instead, the claimant accepted the job the employer offered on November 8, but agreed to start the job on Monday, which was not unreasonable. As a result of some miscommunication between the employer and claimant, the claimant was not assigned a job she had accepted because she did not indicate she could start the next day. The employer assigned another person to the job.

DECISION:

The representative's November 29, 2007 decision (reference 01) is reversed. The claimant accepted the employer's November 8, 2007 job offer, but when she agreed to start Monday instead of the next day, the employer did not assign the claimant to the job. As of November 4, 2007, the claimant remains qualified to receive unemployment insurance benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw