MCKENZIE N CLEMENTS
Claimant

BRITE BEGINNINGS INC
Employer

APPEAL 17A-UI-03699-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/19/17
Claimant: Respondent (1R)

Iowa Code § 96.5(3)a – Failure to Accept Suitable Offer of Work

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the March 29, 2017 (reference 03) unemployment insurance decision that found claimant was eligible for unemployment benefits. The parties were properly notified of the hearing. A telephone hearing was held on April 28, 2017. The claimant, McKenzie N. Clements, participated through witness Kris Davis. The employer, Brite Beginnings Inc., participated through witness Alex Glenn. Department's Exhibit D1 was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUES:

Was a suitable offer of work made to the claimant?
If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The facts in this matter are undisputed. Claimant worked for this employer from March 29, 2016 until June 2, 2016. This employer had no further contact with claimant after June 2, 2016. The claimant's unemployment insurance benefits records establish that the claimant's original claim date for benefits is March 19, 2017, which is after the last contact this employer made with the claimant.

No initial investigation and determination regarding the claimant's separation of employment from this employer has been made by the Benefits Bureau of Iowa Workforce Development. As such, the issue of claimant's separation from employment will be remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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. (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.

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.

871 – 24.1(21) defines an individual's benefit year as a period of 365 days (366 in a leap year) beginning with and including the starting date of the benefit year. The starting date of the benefit year is always on Sunday and is usually the Sunday of the current week in which the claimant first files a valid claim unless the claim is backdated as allowed under subrule 24.2(1), paragraph "h".

This employer had no contact with claimant after June 2, 2016. The claimant's unemployment insurance benefits records establish that the claimant's original claim date is Sunday, March 19,

2017. As such, no offer of work was made by this employer to claimant *during claimant's benefit year* (after March 19, 2017).

DECISION:

The March 29, 2017 (reference 03) decision is affirmed. No offer of work was made to claimant during claimant's benefit year.

REMAND: The separation issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Dawn Boucher
Administrative Law Judge

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Decision Dated and Mailed

db/rvs