

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELYN SCHMINKEY
Claimant

APPEAL NO: 14A-UI-06725-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

HERITAGE GROUP LLC
Employer

OC: 03/02/14
Claimant: Respondent (2)

Section 96.5(3)a – Work Refusal
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 26, 2014, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 22, 2014. The claimant participated in the hearing. Greg Theroux, CEO and Jessica Trinidad, Office Administrator, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant refused a suitable offer of work.

FINDINGS OF FACT:

The claimant previously worked for the employer as a full-time general cleaner, earning \$8.00 per hour and working from 5:00 p.m. to 1:30 a.m. She voluntarily left her position with the employer because she believed she had secured other employment but that job fell through.

The employer made an offer of work to the claimant on June 27, 2014. That offer included the following terms: A position as a full-time general cleaner, earning \$8.00 per hour and working from 5:00 p.m. to 1:30 a.m. The offer was made by certified mail, return receipt requested, and the claimant signed for the offer letter June 28, 2014. The claimant's average weekly wage is \$200.70. The offer was made in the 18th week of unemployment. The claimant did not respond to the employer's offer because she no longer has childcare for those hours and she no longer has a driver's license.

The claimant has claimed and received benefits since the work refusal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did refuse a suitable offer of work.

Iowa Code section 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 employer made the claimant an offer of work through registered mail, return receipt requested, and the claimant signed for the letter June 28, 2014. The offer was suitable as it met the wage, hour and type of work requirements as described above and the claimant did not have a good-cause reason for the refusal. While the claimant can no longer work the hours she previously worked for the employer and that were subsequently offered to her, those are the hours she worked during her base period of employment. Lack of childcare and lack of transportation are not considered good cause reasons for refusing an offer of work. Therefore, the administrative law judge must conclude the claimant did refuse a suitable offer of work. Benefits are denied effective the week ending July 5, 2014.

The claimant has claimed benefits since the work refusal but was not eligible for those benefits. Consequently, she is overpaid benefits in the amount of \$546.00.

DECISION:

The June 26, 2014, reference 03, decision is reversed. The claimant did refuse a suitable offer of work. The claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant is overpaid benefits in the amount of \$546.00.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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