

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE A CASTILLO
Claimant

APPEAL NO. 12A-UI-07750-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HIGHLAND COMMUNITY SCHOOL DIST
Employer

OC: 05-27-12
Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 20, 2012, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on August 22, 2012. The claimant did participate. The employer did participate through Bev Colbert, business manager, and Chris Armstrong, superintendent, and was represented by Lars Anderson, attorney at law.

ISSUE:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an aide for an elementary school student. That position ended and the employer never offered the claimant another position. The employer asked the claimant to apply for open positions. The claimant did not make application for the open positions, because she did not believe she would be able to work with a high school student. The claimant filed a claim for unemployment insurance benefits with an effective date of May 27, 2012. When a text message was sent to her on May 7 about the other positions, the claimant did not have a claim for unemployment insurance benefits. During the fact-finding interview, the claimant was not offered a job, but was merely invited to make an application for one of the open positions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work.

871 IAC 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 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The administrative law judge does not have jurisdiction to evaluate the offer allegedly made on May 7, as the alleged offer of employment took place outside of the benefit year. The second alleged offer was not so much an offer of employment, but rather an offer to apply for an open position. Benefits are allowed.

DECISION:

The June 20, 2012, reference 01, decision is affirmed. Claimant did not refuse a suitable offer of work and an alleged offer of work was made outside of her benefit year; thus, the administrative law judge has no jurisdiction to determine suitability of the offer. Benefits are allowed, provided claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw