

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHAWNA L VANDER PLAATS**

Claimant

**APPEAL NO. 15A-UI-06507-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOYS & GIRLS HOME OF SIOUX CITY**

Employer

**OC: 04/12/15**

**Claimant: Appellant (2)**

Section 96.5-3-a – Work Refusal  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 26, 2015, reference 03, which held claimant ineligible for unemployment insurance benefits due to a refusal to accept work. After due notice, a telephone conference hearing was scheduled for and held on July 15, 2015. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Claimant's Exhibit A was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant refused to accept a suitable offer of work, and whether claimant has remained able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: As claimant was the only participant in the hearing, all findings of fact were gleaned from claimant's testimony. Employer made an offer of work to the claimant on April 27, 2015. That offer included the following terms: Working the shift from 2:00 pm to 11:30 pm. Claimant's average weekly wage was to be \$450.00. The offer was made in the first five weeks of unemployment. Claimant refused the offer of work because of the difficulty in obtaining child care; claimant had made an amount far over the amount offered by the new job; and claimant had newfound concerns about the needs of her young child.

Claimant's previous job paid at or around \$21.85 an hour for a salaried position. Claimant remained able and available for work throughout this time period.

Claimant did know both the wages and the proposed hours offered by employer. After receiving the offer, and calculating in the difference in wages, the added costs of child care, and the ongoing needs her child was to have, claimant chose not to accept the job offer.

## REASONING AND CONCLUSIONS OF LAW:

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.

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work. As claimant was in the first five weeks of unemployment, claimant's denial of a position that paid at or around 50 percent of her previous position is allowed

**DECISION:**

The decision of the representative dated May 26, 2015, reference 03 is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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