

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ELSA Y ALVARADO
2018 WATERFRONT DR LT 71
IOWA CITY IA 52240

CAMBRIDGE CAREERS INC
610 - 32ND AVE SW STE 1A
CEDAR RAPIDS IA 52404-3910

Appeal Number: 05A-UI-03707-SWT
OC: 06/06/04 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-3-a - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 31, 2005, reference 09, that concluded she failed to accept an offer of suitable work without good cause. A telephone hearing was held on April 29, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Chris Delfosse participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of June 6, 2004. She filed an additional claim for unemployment insurance benefits with an effective date of January 23, 2005. Her average weekly wage based on her highest quarter of wages in her base period was \$364.00 or \$9.10 per hour.

On March 9, 2005, the employer offered the claimant a full-time job as an order picker at United National Foods in Iowa City, Iowa. The job had the potential of becoming a full-time job. The hours were from 11:00 a.m. to 9:00 p.m. The hours, wages, and working conditions were not less favorably than similar work in the Iowa City area. The job was within a reasonable commuting distance from her home. The claimant was qualified to perform the work based on her training and experience.

The claimant declined the work because she did not have a vehicle and mistakenly believed that there were no buses available to travel home after work. In fact, buses run until 11:00 p.m.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

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....

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.

In this case, the work was offered paid over 100 percent of her average weekly wage. She was qualified to perform the work, and the hours, wages, and working conditions were not less favorably than similar work in the Iowa City area. The job was within a reasonable commuting distance from her home. Her only reason for turning down the job was her mistaken belief that she could not ride the bus home after work. The claimant should have told the employer that

she needed time to see if she had transportation to work. If she had done so, she would have discovered that she had no transportation problem.

DECISION:

The unemployment insurance decision dated March 31, 2005, reference 09, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

saw/sc