

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

STEPHANIE STEVENSON
Claimant

APPEAL NO. 22A-UI-12635-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOST ISLAND WATER PARK INC
Employer

**OC: 03/06/22
Claimant: Respondent (1R)**

Iowa Code Section 96.5(3) – Refusal of Suitable Work

STATEMENT OF THE CASE:

On May 18, 2022, the named employer in interest, Lost Island Water Park, Inc. (employer account number 305853) filed a timely appeal from the May 13, 2022 (reference 03) decision that allowed benefits to the claimant, provided the claimant was otherwise eligible, based on the deputy's conclusion that the employer, Lost Island Water Park, Inc. (employer account number 305853), did not make the claimant an offer of employment on April 12, 2022. After due notice was issued, a hearing was held on July 5, 2022. Stephanie Stevenson (claimant) participated. Becky Bertch represented the employer and presented additional testimony through Jan Youngblut. Exhibit 1, the emailed appeal, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: EMP1, DBRO, KCCO and the reference 03 decision.

ISSUE:

Whether the claimant refused an offer of suitable work with Lost Island Water Park, Inc. (employer account number 305853) on or about April 12, 2022.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant established an original claim for benefits that was effective March 6, 2022. The claimant made weekly claims for the seven weeks between March 27, 2022 and May 14, 2022. There has been no contact between the claimant and the named employer in interest, Lost Island Water Park, Inc. (employer account number 305853). There has been contact between the claimant and an affiliated but separate business entity, Lost Island Themepark, Inc. (employer account number 644596). Lost Island Water Park, Inc. (employer account number 305853) never made the claimant an offer of employment on April 12, 2022 or otherwise and the claimant never refused such an offer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(3) provides, in pertinent part:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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...

Iowa Admin. Code r. 871-24.24(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 evidence in the record establishes there was no contact between the claimant and the named employer in interest, Lost Island Water Park, Inc. (employer account number 305853), no offer of employer from said employer, and no refusal for work with said employer. Accordingly, the claimant is eligible for benefits, provided the claimant is otherwise eligible.

DECISION:

The May 13, 2022 (reference 03) decision is AFFIRMED. The named employer in interest, Lost Island Water Park, Inc. (employer account number 305853), did not make the claimant an offer of employment on April 12, 2022 and the claimant did not refuse any such offer from the named employer. The claimant is eligible for benefits, provided the claimant is otherwise eligible.

REMAND:

This matter is REMANDED to the Benefits Bureau for a fact-finding interview concerning the claimant and employer Lost Island Themepark, Inc. (employer account number 644596) regarding the issue of whether the claimant refused an offer of suitable work with that employer on or about April 12, 2022.



James E. Timberland
Administrative Law Judge

September 6, 2022
Decision Dated and Mailed

jet/kmj

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de