

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEANIE C LOWE
Claimant

APPEAL 16A-UCFE-00020-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/24/16
Claimant: Appellant (2)

Iowa Code §96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the August 4, 2016, (reference 01) decision that denied benefits due to the claimant's refusal of an offer of work. After due notice was issued, a hearing was held by telephone conference call on August 30, 2016. Claimant participated.

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: Employer made an offer of work to claimant on July 19, 2016. That offer included the following terms: full time work at \$16.00 per hour. The hours of work were from 11:00 a.m. to 8:00 p.m. Monday through Friday. The claimant's prior work history included 34 years at the Younkers distribution center where she worked daytime hours from 8:00 a.m. until 4:30 p.m. Her most recent employment at the USDA was also daytime hours only. The claimant has never worked the hours of 11:00 a.m. to 8:00 p.m. previously. She did not apply for any jobs outside of daytime hours as she and her husband share one car. At the time the claimant made application for the job in question she was told it would be for daytime hours. Claimant's average weekly wage is \$557.34. The offer was made in the 13th week of unemployment.

REASONING AND CONCLUSIONS OF LAW:

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

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

While the offer met the monetary minimums required, that alone is not the only criteria for determining if an offer of work is suitable. The offer was unsuitable, as it did not provide daytime hours of work as is consistent with the claimant's total prior work history. As the work hours made the job unsuitable for this claimant, the administrative law judge concludes that claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The August 4, 2016, reference 01, decision is reversed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs