

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHERISH R JACKSON
Claimant

HEALTHCARE RESOLUTIONS LLC
Employer

APPEAL 18A-UI-10940-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/30/18
Claimant: Respondent (1)**

Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The employer filed an appeal from the October 29, 2018, (reference 05) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 26, 2018. Claimant did not register for the hearing and did not participate. Employer participated through co-owner Megan Hutchins. Employer's Exhibit 1 was received.

ISSUE:

Did claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on July 9, 2018. Claimant works for employer as a CNA on a PRN basis. Employer offers claimant work when it is available. Claimant is free to decline the offered shifts without penalty. Claimant is still employed by employer.

On November 26, 2018, an Iowa Workforce Development representative issued a reference 07 decision finding claimant is not eligible for unemployment insurance benefits effective September 30, 2018, as she is still employed at the same hours and wages as in her original contract of hire.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes no offer of work was actually communicated to claimant.

Iowa Code section 96.5(3)a provides:

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. 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.

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.

In this case, employer did not make a bona fide offer of work to claimant as claimant was already employed with employer during the relevant time period. Employer did make claimant aware of open shifts that were available to her. Claimant declined those shifts, which is her right pursuant to the PRN employment arrangement.

This is not a work refusal case. The issue is whether claimant is able to and available for work and/or is eligible for partial unemployment. Those issues were addressed in the reference 07 decision denying claimant benefits. That decision remains in full force and effect at this time.

DECISION:

The October 29, 2018, (reference 05) unemployment insurance decision is affirmed. Employer did not communicate an offer of work to claimant. Benefits are allowed as it pertains to this issue. However, a reference 07 decision denying claimant partial benefits based on her availability for work remains in effect.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn