

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURIE A BREDAR
Claimant

APPEAL NO. 12A-UI-00995-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMPANION CARE QUAD CITIES INC
Employer

**OC: 12/11/11
Claimant: Appellant (2)**

Section 96.4-3 - Able to and Available for Work
Section 96.5-3-a - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 24, 2012, reference 02, that concluded she was not available for work. A telephone hearing was held on February 22, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing with her representative, Liz Smith. Bill Brownson participated in the hearing on behalf of the employer. Exhibits A, B, and C were admitted into evidence at the hearing.

ISSUES:

Was the claimant able to and available for work?

Did the claimant fail to accept an offer of suitable work without good cause?

FINDINGS OF FACT:

The claimant has worked as a hair stylist for Cost Cutters since July and is currently working about 27 hours per week at a rate of pay of \$7.65 per hour plus tips.

In November 2008 the claimant was looking for a second job and accepted employment as a caregiver for the employer. She was given an assignment providing care to an elderly woman. She was hired to primarily work the second and third shift, which involved an afternoon and evening shift and an overnight shift. She was able to schedule things so that she could work both jobs. She worked four days and 36 hours per week as a caregiver at a rate of pay of \$10 per hour.

The client the claimant worked for died on December 13, 2011. The claimant asked the owner of the business, Bill Brownson, for other work, but the employer did not have work during the hours the claimant was available. The claimant has been available to work the same days and hours as she was available earlier, but the employer has not had work during those hours.

The claimant filed a new claim for unemployment insurance benefits effective December 11, 2011. Her weekly benefit amount was determined to be \$395 based on her wages from the employer and Cost Cutters. The claimant has accurately reported her earnings from Cost Cutters each week and has had weeks in which her earnings were less than her earnings limit of \$410.

On December 19, 2011, Brownson had offered the claimant a two-hour assignment at \$10 per hour that was to be on December 21. The claimant declined the assignment because the hours conflicted with her work schedule at Cost Cutters. The claimant did work for the employer on February 14, because the assignment did not conflict with her other job, and she will be starting another assignment soon.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The rules make it clear that if a claimant is available to work on the same hours as when her wage credits were earned and there is a reasonable opportunity of securing employment during those hours, she has met the requirements of the law for availability. 871 IAC 24.22(2)a. The claimant was laid off when the client that she was caring for died and the employer had no work during the hours the claimant had previously worked.

The next 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 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.

I conclude the claimant had good cause to decline the work offered because the job was a short-term assignment that conflicted with her work schedule at Cost Cutters.

Iowa Code § 96.7-2-a(2) provides that the amount of benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred unless the individual is still employed by a base period employer at the time the individual is receiving the benefits and is receiving the same employment from the employer that the individual received during the individual's base period or the individual has been discharged for work-connected misconduct or voluntarily quit employment without good cause attributable to the employer or refused suitable work without good cause.

The employer's account shall be charged for benefits paid to the claimant, because it was not providing the same employment as provided in the base period.

DECISION:

The unemployment insurance decision dated January 24, 2012, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw