

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JULIE A HARTMAN**  
Claimant

**APPEAL NO. 09A-UI-08132-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARDINAL GLASS INDUSTRIES INC**  
Employer

**OC: 03/22/09**  
**Claimant: Respondent (1)**

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

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated June 23, 2009, reference 02, that concluded the claimant was not subject to disqualification for refusing work. A telephone hearing was held on June 23, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Lisa Ramsey participated in the hearing on behalf of the employer.

**ISSUE:**

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

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The claimant worked full time as a factory laborer for the employer from November 2004 to March 5, 2009, when she was laid off due to lack of work. When she was laid off, she was working the third shift from 11:00 p.m. to 7:00 a.m. Her rate of pay was \$14.50 per hour. She had also worked on the dayshift from 7:00 a.m. to 3:00 p.m. She had never been scheduled to work on the second shift, at her request, due to concerns about her teenage son who needed constant supervision when he was not in school because of behavioral problems. When the claimant worked the third shift, her son stayed overnight at her adult daughter's house.

On April 23, 2009, the human resources manager, Lori Ramsey, called the claimant and offered her a second shift job from 3:00 p.m. to 11:00 p.m. to start the following week. The pay and number of hours would have been the same.

The claimant objected to the hours because of her son's supervision needs and asked about other shifts. Ramsey told the claimant that she could not guarantee it, but that there probably would be openings on the third shift in a few weeks. The claimant asked if she could just wait until there were third-shift openings, but Ramsey told her that if she turned down the offered work, she would not have a job. The claimant asked to think about the offer. The next day, the

claimant informed Ramsey that she could not accept the job because of the hours offered because she would have to leave her son unsupervised in the evening. The claimant's husband works the third shift for the employer, but he is a supervisor and his starting time varies.

The claimant was willing to accept jobs on the first shift and third shift; her only restriction was she did not want to work the second-shift hours.

**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 § 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.

Applying the above factors, I would consider the work suitable but she had good cause to decline the work due to her son's behavioral problems.

The next issue in this case is whether the claimant is able to work and available for work as required by the unemployment insurance law in Iowa Code § 96.4-3. The unemployment insurance rules provide that a claimant does not have to be available for every shift. The claimant is considered available if she is available to work during the same hours as when her wage credits were earned. 871 IAC 24.22(2)a. The claimant was available for work both the

first and the third shift, which were the shifts she had previously worked. She is established her availability for work. She has not unduly restricted the hours that she's willing to work.

**DECISION:**

The unemployment insurance decision dated June 23, 2009, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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