

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENDA WALTE

Claimant

APPEAL NO: 14A-UI-03570-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST PROFESSIONAL STAFFING LLC

Employer

OC: 11/24/13

Claimant: Appellant (1)

Section 96.4-3 – Able and Available

Section 96.3-5 – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 25, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 24, 2014. The claimant participated in the hearing. Joby Parton, Recruiter, participated in the hearing on behalf of the employer.

ISSUES:

The issues are whether the claimant is able and available for work and whether she refused a suitable offer of work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant listed her availability with the employer at the time of hire as Monday through Friday, 7:30 a.m. to 4:30 p.m. Her last assignment was at Equitrust Life Insurance Company from August 3 to August 17, 2013, where she worked from 7:30 a.m. to 4:00 p.m. That assignment was completed.

The claimant did not contact the employer within three working days after the completion of her assignment. At 10:57 a.m. February 13, 2014, Recruiter Joby Parton personally spoke to the claimant about a new assignment at Equifax as a verification of employment specialist in a call center setting. The hours were Monday through Friday, 8:00 a.m. to 5:00 p.m. The wage offered was \$10.00. The assignment was long term with no scheduled end date. The claimant declined the offer, stating she could now only work part time because she is a full-time student. She was on Department Approved Training until December 2013. All of the claimant's previous base period employment was full-time work. The claimant's average weekly wage was \$250.38. The offer was made in the claimant's twelfth week of unemployment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did refuse a suitable offer of work.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 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. 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.

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

The offer was suitable, as it did meet the minimum wage requirements set out above for an offer to be considered suitable. The claimant's weekly benefit amount was \$250.38. The offer was made in the claimant's twelfth week of unemployment and consequently needed to be at least 75 percent of the claimant's weekly benefit amount, or \$203.38. The wages offered were \$400.00 per week and was considered monetarily suitable. While the claimant is now a full-time student, that is not a good cause reason for refusal. She was not on DAT at the time the offer was made and all of her base period employers were full time. Consequently, the claimant is not available to the same extent as during her base period of employment. The claimant has not demonstrated a good-cause reason for the refusal. Therefore, benefits are denied.

DECISION:

The March 25, 2014, reference 01, decision is affirmed. The claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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