

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

PEGGY S PALMER  
517 CENTRAL AVE  
NORTHWOOD IA 50459

MASON CITY CLINIC PC  
250 S CRESCENT DR  
MASON CITY IA 50401

Appeal Number: 05A-UI-00993-SWT  
OC: 08/08/04 R: 02  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

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 claimant appealed an unemployment insurance decision dated January 25, 2005, reference 07, that concluded the claimant had failed to accept an offer of suitable work without good cause. A telephone hearing was held on February 11, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Pam Metli participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of August 8, 2004. The claimant filed an additional claim for unemployment insurance benefits with an effective date of December 19, 2004, after her employment with Good Samaritan Home ended. The claimant's average weekly wage based on the highest quarter of earnings in her base period was \$776.53 or approximately \$19.41 per hour.

The claimant had applied for a full-time job working as a staff nurse in the urology department. She interviewed for the job on December 20, 2004. The interviewer told the claimant that the job paid \$13.00 per hour and asked the claimant if she was interested in a second interview. The claimant stated that she was not interested in a second interview because the pay for the job was too low. The claimant would have been given a second interview, but there is no way to know whether the claimant would have been offered the job. Ultimately, the job was offered to another candidate.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification under Iowa Code Section 96.5-3-a for failing to accept an offer of suitable work without good cause. To be disqualified, the rules require that there be a bona fide offer of work and a definite refusal. In this case, the claimant never was offered work but was only offered a chance for a second interview. As a result, the claimant is not subject to disqualification for failing to accept an offer of suitable work.

The next issue is whether the claimant was able to and available for work as required by Iowa Code Section 96.4-3. The claimant is required to be available for suitable work. In this case, the job that the claimant was interviewing for paid \$13.00 per hour. Iowa Code Section 96.5-3-a provides that to be suitable, a job must provide a claimant 100 percent of her average week based on her highest quarter of earnings in her base period for the first five weeks of unemployment following a new or additional claim for benefits. The claimant filed an additional claim for unemployment insurance benefits during week of December 19, 2004. Therefore, the \$13.00 rate of pay would not be considered suitable and the claimant is not disqualified for not pursuing the second interview for the job.

The employer is not subject to charge for any benefits paid to the claimant because it is not a base-period employer.

#### DECISION:

The unemployment insurance decision dated January 25, 2005, reference 07, is reversed. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

saw/tjc