

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA COBB

Claimant

APPEAL NO. 12A-UI-05019-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GODBERSEN-SMITH CONST CO

Employer

OC: 12/18/11

Claimant: Respondent (4)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 24, 2012 (reference 02) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on May 21, 2012. Claimant participated. Employer participated through Payroll Manager Melissa Schwade. Rebecca Frederickson did not participate.

ISSUES:

Was a suitable offer of work made in the benefit year; did the claimant fail to apply for or refuse an offer of suitable work; and, if so, was the refusal for a good cause reason?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was laid off for the season on December 9 and was last paid on December 16, 2011. Employer made an offer of work to claimant via letter on March 19, 2012 for an April 2, 2012 mandatory meeting about a recall to work. They were paid for the meeting. She was not at the meeting, but her husband was present and said she was thinking about not returning to work. She did not contact the employer about her intended employment status. She claimed benefits for the week ending April 7, 2012. Her crew did not return to work until after April 7, 2012.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did refuse a recall to work effective April 8, 2012.

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. 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.

For the reasons that follow, the administrative law judge concludes claimant did decline a recall to work because she no longer wanted to work during the season. Benefits are withheld effective April 8, 2012.

DECISION:

The April 24, 2012 (reference 02) decision is modified in favor of the appellant. Claimant did refuse a recall to work effective April 8, 2012. 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. Inasmuch as no benefits were claimed or paid beyond April 7, 2012, no overpayment applies.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw