

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

ANNA COOK
2219 S 12TH ST
BURLINGTON IA 52601

ADVANCED HOME HEALTH CARE LTD
1525 MT PLEASANT ST
BURLINGTON IA 52601

Appeal Number: 04A-UI-05060-DWT
OC 02/22/04 R 04
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, 4th 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 are 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Ability and Availability for Work
Section 96.5-3-a – Refusal of Offer of Suitable Work

STATEMENT OF THE CASE:

Anna Cook (claimant) appealed a representative's April 29, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she refused an offer of suitable work from Advanced Home Health Care Ltd. (employer) because she was limiting her availability to one employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 26, 2004. The claimant participated in the hearing. Barb Nelson, the administrator and owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able and available for work as of April 11, 2004?

Did the claimant refuse an offer of suitable work with good cause?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of February 22, 2004. The claimant applied for a job with the employer on April 14, 2004, as a companion homemaker. The claimant indicated she wanted to work 16 hours a week.

The employer filed a form to check the claimant's background after she confirmed she was interested in the job. The initial report the employer received indicated a potential problem so the employer filed another form. On April 23, the employer received information that the claimant's background check was clear. On April 23 or 26, the employer called the claimant to offer her the job that paid \$5.75 an hour.

Before the employer offered the claimant the job, the claimant's daughter told the claimant her former employer, Design Viewpoint, was going to call her back to work as a seamstress. When the employer called the claimant about starting orientation on Wednesday, April 28, the claimant declined the job because she had another job opportunity. The claimant returned to work for her former employer on May 3, 2004. If the claimant would have accepted the job, the employer had 16 hours a week for the claimant to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant can be disqualified for refusing an offer of suitable work without good cause. Iowa Code §96.5-3-a. Before a claimant can be disqualified under Iowa Code §96.5-3-a, the claimant must be able to and available for work. Iowa Code §96.4-3, 871 IAC 24.24(4). The evidence indicates the employer offered the claimant work on April 23 or 26. By the time the employer made the offer, the claimant knew she had a good chance of returning to work as a seamstress for her former employer. When the claimant declined the employer's offer of work, she was able to and available for work. The facts do not establish the claimant restricted herself to one particular job. Instead, she was looking for any work and just happened to find out her former employer planned to call her back to work about the same time the employer offered her a job. When the claimant declined the employer's offer of work, the claimant had good cause to do so. The claimant started working for her former employer on May 3, 2004.

DECISION:

The representative's April 29, 2004 decision (reference 01) is reversed. The claimant refused the employer's April 23 or 26 offer of work with good cause. When the claimant declined the offer of work, she was able to and available for work. The claimant remains qualified to receive unemployment insurance benefits as of April 11, 2004, provided she meets all other eligibility requirements.

dlw/b