

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDY A HEDGMAN
Claimant

APPEAL NO. 06A-UI-11461-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

OC: 10-22-06 R: 03
Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 20, 2006, reference 03, decision that allowed benefits. After due notice was issued, a hearing was held on December 14, 2006. The claimant did not participate. The employer did participate through Stephanie Matteson, Account Manager.

ISSUE:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was assigned to work at Heinz on the first shift, from 8:30 a.m. until 7:00 p.m. until that assignment ended in the fall of 2006.

The claimant was offered another job on October 20, 2006 at Alside Windows working the second shift, from 4:00 p.m. to midnight at \$7.50 per hour for 40 hours per week. The claimant indicated at the fact-finding interview that she did not accept the job because she could not secure daycare after 7:00 p.m. at night and that she did not want to work at Alside because she had recently discovered that a female employee had been raped while working there. A second offer of work was made to the claimant on October 26 for a job to begin that same day. The claimant declined the offer because she could not arrange for daycare on such short notice.

No other offers of work were actually made to the claimant. On November 8, the employer was unable to reach the claimant to convey an offer and on November 15 the employer would not make an offer until the claimant submitted a resume. Claimant's average weekly wage is \$273.93. The offer was made in the first six weeks of unemployment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work.

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.

The offer made on October 20 was unsuitable, as it would have required the claimant to work second shift, which she was unable to do because of daycare needs for her children. Additionally, the claimant was justified on refusing to work in a place where her safety may have been in danger. Her previous work for the employer had been first shift work at Heinz. The claimant was justified in refusing the second offer of October 26 as she had no time to arrange for daycare on such short notice. No other actual offers of work were made to the claimant. In order to evaluate any refusal an offer must first be made. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The November 20, 2006, reference 03, decision is affirmed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css