

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE L HANSON**

Claimant

**APPEAL NO. 13A-UI-08940-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**

Employer

**OC: 10/21/12**

**Claimant: Appellant (1)**

Section 96.5-3-a – Job Refusal

**STATEMENT OF THE CASE:**

The claimant appealed from a representative's decision dated July 23, 2013, reference 03, that held claimant refused a recall to suitable work on July 8, 2013, and benefits are denied. A telephone hearing was held on September 9, 2013. The claimant did not participate. Nicole Petersmith, Service Representative, participated for the employer. Employer Exhibit 1 was received as evidence.

**ISSUE:**

Whether claimant refused suitable work.

**FINDINGS OF FACT:**

The administrative law judge having heard witness testimony and having considered the evidence in the record finds that: The claimant began work on August 1, 2011. She performed a full-time labor job as a flagger for WK Construction. The employer received a report claimant was not wearing the required safety equipment and a representative went to the job site.

The employer representative confirmed claimant was not wearing the issued safety equipment, and it removed her from the assignment on June 28, 2013. The employer offered claimant the same type of flagger job at Cedar Falls construction on July 8 and claimant refused as she was trying to get the job on her own. The job was the same position and at the same pay. The employer made repeated attempts on July 17 and 22 to offer claimant the flagger job and she declined.

Claimant failed to respond to the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

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 administrative law judge concludes claimant repeatedly refused a suitable offer of work beginning July 8, 2013 and is denied benefits.

The employer had a good cause to remove claimant from a previous job assignment and it offer her suitable work as a flagger for a different construction business. Claimant did not have a good cause for refusal.

**DECISION:**

The department decision dated July 23, 2013, reference 03, is affirmed. The claimant refused suitable work on July 8, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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