

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHELE K GOOD
Claimant

KELLY SERVICES USA LLC
Employer

APPEAL 18A-UI-04792-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/03/17
Claimant: Appellant (1)

Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 13, 2018, (reference 03) unemployment insurance decision that denied benefits based upon refusing an offer of work. After due notice was issued, a telephone conference hearing was held on May 10, 2018. Claimant Michele K. Good participated. Employer Kelly Services U.S.A., L.L.C., participated through Elizabeth Comried, Commercial Recruiter. The administrative law judge took official notice of the administrative record.

ISSUES:

Was a suitable offer of work made to the claimant?
If so, did the claimant fail to accept and was the failure to do so 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: Employer made an offer of work to claimant via telephone on February 27, 2018. That offer included the following terms: a customer service position with Transamerica, with hours from 7:00 a.m. until 3:30 p.m. for the first four weeks of training. The wage offered for the job is \$13.25. Claimant's average weekly wage is \$613.57. The offer was made in the 13th week of unemployment. When claimant spoke to Comried about the job, she said she would think about the offer and get back to her. Claimant never got back to Comried to either accept or reject the position. Claimant was only interested in working as an administrative assistant. Claimant had previously performed a customer service position through Kelly Services, but she was uncomfortable with the amount of math involved in that job. Claimant did not ask the employer for any information about the type of work she would be doing in the Transamerica assignment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept 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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.23(20) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

Here, the employer extended claimant a bona fide offer of work. Both parties agree that claimant was offered a customer service position. Customer service is a broad category encompassing numerous subgroups of jobs, including inbound answering, outbound calling, complaint fielding, question answering, and other types of jobs. Based on claimant's job experience with this employer, the offer was suitable. Claimant has not established that she had a good cause reason for the failure to accept it.

DECISION:

The April 13, 2018, (reference 03) unemployment insurance decision is affirmed. Claimant failed to accept a suitable offer of work. 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn