

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

LACHELLE L WILSON
Claimant

BROWN SALES COMPANY INC
Employer

APPEAL 23A-UI-03125-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/23/22
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.5(3)A – Work Refusal

STATEMENT OF THE CASE:

On March 23, 2023, claimant Lachelle L. Wilson filed an appeal from the March 20, 2023 (reference 07) unemployment insurance decision that denied benefits effective January 8, 2023, due refusing an offer of work with Brown Sales Company Inc. on January 12, 2023. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Monday, April 10, 2023. Claimant Lachelle L. Wilson participated. Employer Brown Sales Company Inc. did not appear for the hearing and did not participate. No exhibits were offered for the hearing. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant refuse to accept a suitable offer of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last employed with CVG in Monona, Iowa. She worked full-time hours performing data-entry and various support staff duties for multiple departments. Claimant earned \$17.77 per hour and worked her full-time hours over four ten-hour days.

Claimant has been filing weekly continued claims since she opened her claim with an effective date of October 23, 2022. On January 12, 2023, employer Brown Sales Company Inc. in Guttenberg, Iowa made an offer of work to claimant. Brown offered claimant a parts advisory job, involving computer work and on-the-job training for other duties. The wage offered for the job is \$15.00 plus commission.

Claimant turned down the offer of work from Brown Sales Company. Guttenberg is a 45-minute drive from claimant's home in Monona. This drive is particularly difficult in the wintertime, when claimant received the job offer. During the same week that claimant received the offer, Fiske Farm and Home in Monona listed a job opening in claimant's field. Claimant applied for that job and was offered an interview that same week. The rate of pay for that job was comparable to the rate of pay for the Brown job. Claimant did not ultimately get the job at Fiske, due to the

high level of competition for jobs in Monona. Claimant also searched for work in all neighboring communities, including Elkader, Postville, Waukon, and Prairie du Chien, Wisconsin. Claimant ultimately found employment at a furniture store in Prairie du Chien.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not required to accept the offer of work, because it was not suitable.

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.

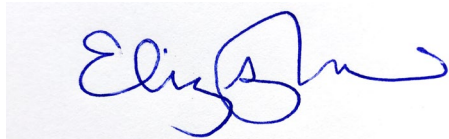
(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

(Emphasis added.) The administrative rules further describe the analytical model for determining whether a claimant has refused a suitable offer of work. See Iowa Admin. Code r. 871-24.24(3). First, the offer must be an offer of suitable work. Second, if suitability is established, claimant must have a good-cause reason for refusing the offer of work.

Here, the offer claimant received from Brown Sales Company was not a suitable offer of work for her. The administrative law judge focused on the two factors in italicized bolded font above: the claimant's prospects for securing local work in the her customary occupation and the distance of the available work from her hometown. During the same week that claimant rejected the Brown Sales Company job, claimant applied and interviewed for a job located in Monona that fit her skills and experience and that paid as much as, if not more than, the job she was offered at Brown. The position she was offered at Brown, the "available work," was a forty-five minute drive from home. This commute would impact not just the financial factor, but also the physical and mental health toll that a stressful commute can take on a person. Taking the required factors into account, the administrative law judge finds claimant rejected an offer of work and the offer was not a suitable offer of work. Benefits are allowed.

DECISION:

The March 20, 2023 (reference 07) unemployment insurance decision is reversed. Claimant was not required to accept the offer of work because it was not suitable. Benefits are allowed.



Elizabeth A. Johnson
Administrative Law Judge

April 11, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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 is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.