

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VERONICA A MORENO**  
Claimant

**APPEAL NO. 08A-UI-02176-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EAGLE OTTAWA LLC**  
Employer

**OC: 01/20/08 R: 03  
Claimant: Respondent (1)**

Section 96.5-3-a – Refusal to Accept Suitable Work

**STATEMENT OF THE CASE:**

The employer filed an appeal from a decision of a representative dated February 28, 2008, reference 02, which found the claimant eligible to receive unemployment insurance benefits finding that she did not accept an offer of work on October 17, 2007 but at the time the claimant did not have a valid unemployment insurance claim for benefits. After due notice a telephone conference hearing was scheduled for and held on March 19, 2008. The claimant failed to respond to the hearing notice and did not participate. The employer participated by Ms. Tracy Keller.

**ISSUE:**

The issue in this matter is whether the claimant refused an offer of suitable work during a week in which she had a valid unemployment insurance claim.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered the evidence in the record, finds: The claimant worked for this employer until April 22, 2007 when she was placed in long-term layoff status. On October 5, 2007, the claimant was recalled by certified letter to a same position offering the same or higher pay. Ms. Moreno responded indicating that she would return to work on October 17, 2007 but did not do so. At the time of the offer and refusal the claimant did not have a valid unemployment insurance claim for benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence establishes the claimant refused an offer of suitable work within the individual's benefit year. It does not. The evidence in the record establishes that the employer made the claimant an offer of suitable work on October 5, 2007 and that the claimant refused the offer. Having taken official notice of the claimant's administrative file, the administrative law judge notes that the claimant did not have an active claim for unemployment insurance benefits during the time that the offer of work was made and, therefore, is not subject to a benefits qualification.

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.

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

For the reasons stated herein, the administrative law judge concludes the claimant did not have a valid unemployment insurance claim at the time that she did not accept an offer of work with Eagle Ottawa LLC.

**DECISION:**

The representative's decision dated February 28, 2008, reference 02, is hereby affirmed. The claimant is eligible to receive unemployment insurance benefits if she meets all other eligibility requirements of Iowa law. The claimant did not accept an offer of work on October 17, 2007, however, at the time the claimant did not have a valid unemployment insurance claim.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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