

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

BRENDA L STEELE
Claimant

APPEAL NO: 18A-UI-11304-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STAFFING INC
Employer

**OC: 10/21/18
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 9, 2018, (reference 06) unemployment insurance decision that denied benefits based upon refusal to accept an offer of suitable work on October 26, 2018. The parties were properly notified about the hearing. A telephone hearing was held on December 5, 2018. The claimant participated personally and was represented by Noel C. Stahle. The employer participated through Laurie Simmons, account manager. Alejandra Rocha and Ruth Castor also testified. Employer Exhibits 1-9 were admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant fail to accept a suitable offer of work and if so, was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits effective October 21, 2018. The claimant's average weekly wage was \$585.64.

On October 26, 2018, the employer called the claimant and offered her an interview at the Hy-Vee distribution center in Chariton. The employer indicated the position would pay \$16.00 per hour for 40 hours a week (\$640.00 weekly) if the claimant was hired. The claimant elected not to interview for the position, stating the distance to Chariton was 50 miles each way, and she had previously commuted 25 miles each way at her prior assignment. The claimant has otherwise been searching for full-time employment, for first shift, in manufacturing and production jobs.

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 section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. 871-24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

In this case, the employer offered the claimant an interview with Hy-Vee distribution in Chariton. An interview is not the same as an offer of work, as it is contingent on the employer meeting and agreeing to employ the applicant. It is possible after an interview, an applicant will not be permitted to work. After an interview is completed, a valid offer of work can be extended to an applicant. However, in this case, the administrative law judge is not persuaded the employer's call with the claimant about a Hy-Vee interview constitutes a valid offer of work. Since no offer of work was actually made, benefits are allowed.

DECISION:

The November 9, 2018, (reference 06) decision is reversed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided she is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn