

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BARBARA L DAVIS**  
Claimant

**APPEAL NO. 12A-UI-04473-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC**  
Employer

**OC: 03/18/12**  
**Claimant: Appellant (1)**

Section 96.5-3-a – Refusal of Suitable Work

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated April 18, 2012, reference 06, which denied unemployment insurance benefits upon a finding that the claimant refused an offer of suitable work on April 11, 2012. After due notice, a telephone hearing was held on May 14, 2012. The claimant participated. The employer participated by Ms. Colleen McGinty, UI Administrator, and Ms. Laurie Pauly, Account Representative.

**ISSUE:**

The issue is whether the claimant refused an offer of suitable work.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Barbara Davis last worked with Sedona Staffing on an assignment that came to an end on March 14, 2012. On March 26, 2012, the claimant was offered an assignment with the Grupo Company that was to begin on April 11, 2012. The claimant did not accept the job believing that she would not be allowed time off from the assignment if needed and because the claimant believed that the job did not pay a sufficient hourly wage to justify her travel to the assignment. The assignment was approximately 15 minutes away from the claimant's home location.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant refused an offer of suitable work.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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(4) provides:

(4) Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3). Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

In this matter the administrative law judge concludes based upon the evidence in the record that the claimant refused an offer of suitable work. The pay and duties were suitable based upon the claimant's period of unemployment and her past pay and assignments with this temporary employment firm. The fact that the perspective employer desired good attendance from applicants does not make the offer of work unsuitable. While the claimant's decision to wait for a preferred assignment may have been a good decision from her personal viewpoint, the evidence establishes that the work offer was suitable and the evidence in the record establishes no good cause reason for the claimant's refusal. Unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated April 18, 2012, reference 06, is affirmed. Claimant refused to accept suitable work. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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