

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA M SCHAVERS
Claimant

APPEAL NO. 07A-UI-01948-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY RESOURCES INC
Employer

OC: 01/14/07 R: 04
Claimant: Respondent (1-R)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Family Resources, filed an appeal from a decision dated February 15, 2007, reference 02. The decision allowed benefits to the claimant, Rebecca Schavers. After due notice was issued a hearing was held by telephone conference call on March 13, 2007. The claimant participated on her own behalf. The employer participated by Human Resources Director Deb Garvey and Director of Victim Services.

ISSUE:

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

FINDINGS OF FACT:

Rebecca Schavers filed a claim for unemployment benefits with an effective date of January 14, 2007. Notice of the claim was mailed to the employer on January 19, 2007, and returned within the ten day time period. The employer had protested the claim on the basis that Ms. Schavers had refused an offer of work or recall.

The claimant did not, in fact, refuse an offer of work. The employer alleged she refused to continue working and was “terminated.” That separation had not been adjudicated by Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant did not refuse an offer of work as not was made to her by the employer. The employer erroneously marked that as the issue of protest which caused the current decision to be made. The protest should have been on the basis of a quit or discharge and that issue should be remanded for determination.

DECISION:

The representative's decision of February 15, 2007, reference 02, is affirmed. Rebecca Schavers did not refuse an offer of available, suitable work and disqualification may not be imposed.

The issue of the claimant's separation from employment is remanded to the Claims Section for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs