

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SONJA L WARREN
Claimant

APPEAL NO. 07A-UI-03361-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF CEDAR RAPIDS
Employer

**OC: 12-31-06 R: 03
Claimant: Appellant (2)**

Section 96.4-3 - Able and Available
Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 26, 2007, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on April 17, 2007. The claimant did participate. The employer did participate through Debbie Chamberlain, Risk Control Manager.

ISSUE:

Did the refuse suitable work and is she able to and available for work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: On February 15, 2007 Kathy Jablonski, branch manager for Manpower offered the claimant a position as a laundry assistant at \$7.97 per hour, for 30 to 40 hours per week, first shift, (5:00 a.m. to 1:00 p.m. or 2:00 p.m.) Monday through Friday at Allen Hospital. The claimant accepted the job. The next day the claimant called Erica Frank and told her that because the job started so early in the morning, 5:00 a.m. she would need some time to make arrangements to obtain early morning daycare for her children. The claimant was not allowed to leave her children home alone.

The claimant found suitable childcare for her children on February 20 and notified the employer that she would begin the job. After completing her pre-employment drug test and screening the claimant started the assignment on February 26, 2007.

When the claimant started the job she learned that the job would only be 20 hours at most per week and that she would be required to work every other weekend. The claimant's hours were reduced and she is now working only every other weekend. The claimant is also currently working another job.

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:

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 accepted the offer when she made arrangements for child care. The offer that was made to her turned out to be very different than the hours she was actually given. The claimant was promised no weekend work and between 30 and 40 hours per week. The job she was actually given required weekend work and only allowed the claimant at most 20 hours per week. The claimant was justified in taking a short time to locate child care for her children. She did accept the job, and is still currently working the job even though it was not what was

promised to her. As such she is able to and available for work and there is no finding that she refused a suitable offer of work. Benefits are allowed.

DECISION:

The March 26, 2007, reference 03, decision is reversed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs