

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAULA S. BLAKE
Claimant

APPEAL 22A-UI-02880-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

**OC: 02/07/21
Claimant: Respondent (3)**

Iowa Code § 96.4(3) – Able and Available
Iowa Code § 96.5(3)a – Failure to Accept Work
871 IAC 24.24(15)i – Suitable Work

STATEMENT OF THE CASE:

On January 17, 2022, QPS Employment Group, Inc. (employer) appealed a representative's January 10, 2022, decision (reference 03) that concluded Paula S. Blake (claimant) was eligible to receive unemployment insurance benefits because no offer of work was actually made by employer on February 12, 2021. The parties were properly notified about the hearing. A telephone hearing was held on February 25, 2022. The hearing was held together with appeals 22A-UI-02878-CS-T and 22A-UI-02879-CS-T and combined into one record. Claimant did not call in to participate. Employer participated through Unemployment Coordinator, Jessica Segner. Exhibits 1, 2, and 3 were admitted into the record.

ISSUES:

Did the claimant refused suitable work?

Is claimant able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: Prior to her separation, claimant worked full-time for the employer earning \$10.00 an hour.

On February 12, 2021, the employer offered the claimant a full-time job. The claimant would earn \$11.50 an hour. The job was located 5.5 miles from claimant's residence. The position was stocking shelves. The employer made the offer via text message. (Exhibit 3). On February 14, 2021, the claimant refused the offer of work because she hurt her back. The employer did not hear from claimant after February 14, 2021.

The claimant filed a new claim for unemployment insurance benefits with an effective date of February 7, 2021. The claimant's highest quarter of wages during her base period was the 4th

quarter of 2019, during which her wages totaled \$5,503.00. The claimant's average weekly wage during her highest quarter of wages was \$423.31.

REASONING AND CONCLUSIONS OF LAW:

The first issue that must be determined is whether the claimant is able and available for work.

Iowa Admin. Code r. 871-24.24(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. (Emphasis added).

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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 Admin. Code r. 871-24.23(34) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(34) Where the claimant is not able to work due to personal injury.

In this case the claimant was not available for work. Claimant reported that she injured her back and was not available to work due to her personal injury. Claimant had good cause to refuse suitable work. However, that good cause reason makes her unavailable for work effective February 14, 2021, and continuing until such time as the claimant obtains a medical release to return to work which she is capable of performing given her education, training, and work experience.. Benefits are denied as of February 14, 2021.

DECISION:

The representative's January 10, 2022, decision (reference 03) is MODIFIED in favor of the appellant. The claimant is not available for work beginning February 14, 2021. Benefits are denied effective February 14, 2021, and continuing until claimant provides Iowa Workforce Development proof of a medical release to return to work which she is capable of performing given her education, training, and work history.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

March 16, 2022
Decision Dated and Mailed

cs/scn