

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY BURGE
Claimant

APPEAL NO: 16A-UI-02695-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 11/08/15
Claimant: Respondent (1)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 26, 2016, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 28, 2016. The claimant participated in the hearing. Colleen McGuinty, Unemployment Insurance Administrator and Beth Gunnell, Account Manager, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The employer made an offer of work to the claimant by phone February 4, 2016. That offer included the following terms: A packer position at Hill and Valley in Rock Island, Illinois, earning \$8.95 per hour on her choice of first or second shift. The first shift began between 5:00 a.m. and 7:00 a.m. and ended between 1:00 p.m. and 3:00 p.m. and the second shift began between 1:00 p.m. and 3:00 p.m. and ended between 9:00 p.m. and 12:00 p.m. The claimant's average weekly wage is \$454.22. The offer was made in the thirteenth week of unemployment. The claimant's only previous assignment with the employer was with West Rock in Iowa City. The claimant must rely on the bus for transportation and the employer provided transportation from Davenport to Iowa City for the West Rock position. The claimant would have had to walk 13 blocks from her home to catch the bus in the morning. The bus near her house stopped at 5:45 p.m. The claimant requested assignments on the bus line at the time of hire.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the 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 employer made the claimant a bona fide offer of work February 4, 2016. The offer was suitable except for the fact that the claimant indicated she needed an assignment on the bus line and this assignment would have required she walk 13 blocks to and from the bus each morning and evening and the bus ride to the employer's location in Moline took her one hour and 25 minutes. That distance to the bus and the ride on the bus is too great to find the offer of work reasonable given the claimant's stated need for the assignment to be on the bus line. Therefore, benefits are allowed.

DECISION:

The February 26, 2016, reference 01, decision is affirmed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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