

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CASSONDRA M LENZ
Claimant

APPEAL NO: 06A-UI-08353-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY
Employer

OC: 07/09/06 R: 01
Claimant: Respondent (1)

Section 96.5(3)(a) – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Casey's Marketing Company filed a timely appeal from the August 10, 2006, reference 03, decision that allowed benefits and concluded claimant Cassandra Lenz had good cause for refusing an offer of employment with Casey's. A hearing was scheduled for September 5, 2006, and the parties were appropriately notified. Ms. Lenz did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Human Resources Coordinator Lisa Larson was available to represent Casey's. However, the administrative law judge determined, based on review of the administrative file, that further hearing was not necessary. With the approval of the employer's representative, and after taking notice of the Agency's administrative file, the administrative law judge enters the following decision.

ISSUE:

Whether Ms. Lenz refused a suitable offer of employment from Casey's Marketing Company. The administrative law judge concludes she did not refuse a suitable offer of employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Cassandra Lenz established a claim for benefits that was effective July 9, 2006. Ms. Lenz continued her claim for benefits by making weekly reports via the Agency's automated telephone reporting system. For the week that ended July 22, 2006, Ms. Lenz reported she had refused an offer of employment. On August 9, a Workforce representative interviewed Ms. Lenz and two employees of the Sheldon Casey's General Store regarding the refusal of employment. The Workforce representative was able to determine that Casey's had made a bona fide offer of employment, which Ms. Lenz rejected. Ms. Lenz rejected the offer of employment because of the pay, the work hours, and the fact that the work would require her to invest in a new wardrobe. The pay would have been \$5.75 or \$6.25 per hour. The hours would have been variable and number of hours would be subject to the employer's needs. At the time Ms. Lenz established her claim for benefits, Iowa Workforce Development determined that Ms. Lenz's applicable average weekly wage had been \$512.96 for full-time, day shift employment.

Ms. Lenz's applicable wage had been \$12.82 per hour. Ms. Lenz's unemployment insurance claim was only in its second week when Ms. Lenz refused the offer of employment from Casey's.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Lenz refused a suitable offer of employment. She did not.

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.

Though Ms. Lenz refused Casey's offer of employment, the offer was not for suitable work, as that term is defined in Iowa Code section 96.5(3)(a). Under the Code's definition of suitable work, the employment offered by Casey's was not suitable because the offer came within the

first five weeks of Ms. Lenz claim for benefits and did not include pay equivalent to 100 percent of Ms. Lenz's applicable average weekly wage.

DECISION:

The Agency representative's August 10, 2006, reference 03, decision is affirmed. The claimant did not refuse a suitable offer of employment on July 26, 2006. The claimant continues to be eligible for benefits, provided she is otherwise eligible. This decision imposes no liability on Casey's.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw