

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JENNA N BOWMAN
Claimant

APPEAL NO: 18A-UI-00954-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

**OC: 09/17/17
Claimant: Appellant (1)**

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 11, 2018, reference 07, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 13, 2018. The claimant participated in the hearing with Advocate Theresa White. Colleen McGuinty, Unemployment Insurance Administrator and Sarah Vlach, Front Desk Specialist, 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 on November 30, 2017. That offer included the following terms: A full-time position at Berry Plastics as a general laborer working 12 hours per shift on first or third shift earning \$11.00 per hour in Peosta, Iowa. The claimant's average weekly wage is \$218.00. The offer was made in the 11th week of unemployment. The gross weekly wage must equal or exceed 75 percent of the claimant's average weekly wage when an offer is made during the sixth through 12th week of unemployment. Peosta is 14.3 miles from the claimant's home. The claimant declined the position because she does not have a driver's license or vehicle and does not have transportation outside of Dubuque.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did refuse a suitable offer of work.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

The employer made an offer of suitable work to the claimant November 30, 2017. The offer was suitable as it met the wage requirements and the claimant did not have a good-cause reason for the refusal. While it is unfortunate that the claimant has transportation issues, finding a means to get to and from work is the claimant's responsibility and an offer of work cannot be considered unsuitable because the claimant lacks transportation. Therefore, benefits must be denied.

DECISION:

The January 11, 2018, reference 07, decision is affirmed. The claimant did refuse a suitable offer of work. Benefits are denied until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn