

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROL J CRAWFORD

Claimant

APPEAL NO. 09A-UI-06015-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BARKER IMPLEMENT & MOTOR

Employer

OC: 03/01/09

Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 13, 2009, reference 03, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on May 14, 2009. Claimant participated. Employer participated through Teresa Tritsch.

ISSUE:

The issue is whether claimant refused a suitable offer of work and if so, whether the refusal was for a good cause reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked part-time in the parts department and was separated from McGahuey Implement on March 1, 2009 when the business was sold to Barker Implement. On March 2 claimant attended an unpaid orientation and was advised as a part-time employee she would not be working more than 30 hours per week and the former rate of pay of \$10.00 per hour would be reevaluated at the end of a 30-day probationary period. The new manager told her she would not be able to come and go as she pleased but would have to set regular hours. During her employment with McGahuey she exchanged flexibility in work hours for fewer benefits. Her average weekly wage is \$415.57 including another employer's gross wages for 2008. The McGahuey the average weekly wage was \$341.19 per week or the equivalent of an average of 34 hours per week. Working part-time with Barker at a maximum of 30 hours per week would have resulted in a maximum average weekly wage of \$300.00 per week.

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 § 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 offer was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Benefits are allowed.

DECISION:

The April 13, 2009, reference 03, decision is affirmed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css