

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E LEMKE

Claimant

APPEAL NO. 11A-UI-10438 -VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

STUFF ENTERPRISES INC

Employer

OC:07/03/11

Claimant: Respondent (1)

Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated August 4, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 30, 2011. Claimant participated. Jenna Nelson and Laurie Hanson were witnesses for the claimant. Employer participated by Mary Sunblat, owner. The record consists of the testimony of Mary Sunblat; the testimony of Mary Lemke; the testimony of Jenna Nelson; the testimony of Laurie Hanson; and Employer's Exhibits 1-2.

ISSUE:

Whether the claimant refused a suitable offer of work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is in the consignment department store business and operates several locations in eastern Iowa. The claimant worked at the employer's store in west Cedar Rapids.

On June 30, 2011, the owner, Mary Sunblat, came to the west Cedar Rapids store and informed the employees that the store would be closing on July 30, 2011. The claimant was not present for this meeting. The claimant found out about the store closing when she returned to work on July 8, 2011. The claimant had no job at that time because she worked in the evening and the employer had eliminated all evening hours on June 30, 2011. The claimant was never personally offered a job at another location by the employer or by registered letter.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual.

The evidence in this case failed to establish that a bona fide offer of work was made to the claimant by either personal contact or registered letter. The claimant was not present when the employer made any personal contact with some of the employees on June 30, 2011. Ms. Nelson and Ms. Hanson both corroborated the claimant's testimony that she was never offered a job at the other store in Cedar Rapids. Since no bona fide offer of work was made by the employee, the claimant cannot be disqualified on the basis of a job refusal.

DECISION:

The decision of the representative dated August 4, 2011, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs