

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SANDRA K DAVIS**

Claimant

**APPEAL NO. 11A-EUCU-00681-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PALMER COMPANIES INC**

**PALMER CONSULTING**

Employer

**OC: 01/16/11**

**Claimant: Respondent (1)**

Section 96.5-3-a – Refusal to Accept Suitable Work

**STATEMENT OF THE CASE:**

Palmer Consulting (employer) appealed a representative's August 17, 2011 decision (reference 03) that concluded Sandra Davis (claimant) eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 21, 2011. The claimant was represented by Christopher Rottler, Attorney at Law, and participated personally. The employer participated by Laurie Wellendorf, Senior Staffing Consultant.

**ISSUE:**

The issue is whether the claimant refused suitable work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 28, 2011, as a temporary worker. The claimant's assignment ended on March 25, 2011. On June 3, 2011, the employer asked if the claimant was interested in full-time work. The claimant told the employer that she was not because she is a full-time student. The claimant filed her claim for unemployment insurance benefits on January 16, 2011. She is approved for Department Approved Training from March 13, 2010, through November 12, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant did not refuse an offer of suitable work.

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. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The employer asked the claimant if she was interested in full-time work. No offer of work was made to the claimant. The claimant is qualified to receive benefits because no offer of suitable work was made to the claimant.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible because she was an eye witness to the conversation. If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976). The employer had the power to present testimony but chose not to do so. The employer did not provide first-hand testimony at the hearing and, therefore, did not provide sufficient eye witness evidence of an offer of work to rebut the claimant's denial of said offer.

**DECISION:**

The representative's August 17, 2011 decision (reference 03) is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs