

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CHRISTINA L MORGAN
623 – 5TH ST
FORT MADISON IA 52627-3031

TEMP ASSOCIATES
1000 N ROOSEVELT AVE
BURLINGTON IA 52601

Appeal Number: 06A-UI-06195-H2T
OC: 03-26-06 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Iowa Code section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 12, 2006, reference 03, decision that found she refused to accept suitable work. After due notice was issued, a hearing was held on July 6, 2006. The claimant did participate. The employer did participate through Jenny McNeil, Account Manager. Department's Exhibit D-1 was received. Claimant's Exhibit A was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant on May 2, 2006. That offer included the following terms: Work for PPG, full time 40 hours per week, on the second shift, at \$9.00 per hour. The claimant rejected the offer because it was too far for her to drive. It was roughly 30 miles from her

home. Claimant's average weekly wage is \$424.76. The offer was made in the sixth week of unemployment. Offers made in the sixth week of unemployment need only equal 75% of the claimant's average weekly wage or in this case \$318.57 in order to be considered suitable. The PPG job would have paid the claimant gross weekly wages of \$360.00.

The claimant was mistaken about the week in which her job offer was made. The agency's records clearly show that the claimant called in and it was she who reported wages for the week ending April 1, 2006. Thus, the claimant could have known that she was in her sixth and not her fifth week of unemployment.

On May 4, the employer spoke to the claimant again about the same job. The claimant told the employer that she had moved to Fort Madison making her even closer, 17 miles one way, to the PPG job. The claimant was re-offered the job as she was now only 17 miles from the job site and still refused because it was too far to drive.

REASONING AND CONCLUSIONS OF LAW:

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

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.

The offer was suitable, as it did meet the minimum wage requirements set out above for an offer to be considered suitable. The offer was suitable as it was as far away as the claimant had been required to drive for previous job and claimant did not have a good-cause reason for the refusal. Benefits are denied effective May 2, 2006.

DECISION:

The June 12, 2006, reference 03, decision is affirmed. Claimant did refuse a suitable offer of work. Benefits are withheld 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.

tkh/pjs