

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROSELINE CARRION**  
Claimant

**MID-IOWA COMMUNITY ACTION INC**  
Employer

**APPEAL 17A-UI-02030-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/22/17**  
**Claimant: Respondent (1-R)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The employer filed an appeal from the February 14, 2017, (reference 05) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 16, 2017. Claimant participated. Employer participated through Human Resources Manager, Chuck Brewer and Site Supervisor for the Hardin County Family Development Center, Jayni Hirth. Employer Exhibit 1 was admitted into evidence with no objection. Official notice was taken of the administrative record of claimant's wage, benefit payment, and continued claim filing histories, with no objection.

**ISSUE:**

Was a suitable offer of work made to the claimant? If so, did the claimant fail to accept and was the failure to do so 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 was employed as an on-call translator and an on-call substitute teacher from September 26, 2016, and was separated from employment on February 6, 2017. Claimant filed a claim for benefits with an effective date of January 22, 2017.

The last time the employer made an offer of work to claimant that she responded to was on December 27, 2016. Employer Exhibit 1. On December 27, 2016, the employer contacted claimant about working on December 30, 2016. Employer Exhibit 1. Claimant accepted the offer of work for December 30, 2016. Employer Exhibit 1. On December 30, 2016, claimant worked only 30 to 45 minutes because her back hurt; claimant had been scheduled to work a full day. Employer Exhibit 1. On December 30, 2016, the employer contacted claimant about training, but she did not respond. Employer Exhibit 1. On January 5, 2017, the employer contacted claimant about providing proof of her car insurance, but she did not respond. Employer Exhibit 1. On January 6, 2017, Ms. Hirth spoke to claimant about bringing in proof of her car insurance, which was needed for claimant to work for the employer, and claimant responded she would provide it that day, but she did not provide proof of her car insurance on

January 6, 2017. The last time the employer offered work to claimant was on January 10, 2017, but she did not respond.

All of the employer's offers of work were for claimant's regularly scheduled pay rate (\$9.21 per hour for the substitute teaching position and \$15.00 per hour for the translator position). Claimant did not have a valid claim for unemployment insurance benefits at the time any offers were made by the employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that any offer of work made by the employer was outside of claimant's benefit year.

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. (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.

Iowa Admin. Code r. 871-24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The employer did not make any offer of work to claimant after January 10, 2017. Claimant filed a claim for benefits with an effective date of January 22, 2017. The administrative law judge does not have jurisdiction to evaluate the offer or refusal of work since the offer of employment took place outside of the benefit year. Benefits are allowed.

**DECISION:**

The February 14, 2017, (reference 05) decision is affirmed. Any offer of work made by the employer was made outside of claimant's benefit year; thus, the administrative law judge has no jurisdiction to determine suitability of the offer. Benefits are allowed, provided claimant is otherwise eligible.

**REMAND:** The separation issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs