

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARAH WILKINSON
Claimant

APPEAL NO: 12A-UI-11913-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST PROFESSIONAL STAFFING LLC
Employer

OC: 01-08-12
Claimant: Respondent (1R)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 28, 2012, reference 05, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 30, 2012. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Rachel Michael, Staffing Manager and Karena Steir, Administrative Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant refused a suitable offer of work.

FINDINGS OF FACT:

The claimant was assigned to Mail Services and worked there from March 30, 2010 to January 11, 2012, when the client ended the claimant's assignment due to attendance issues. The claimant did not contact the employer within three business days at the completion of her assignment. On May 25, 2012, the employer emailed the claimant and asked if she was still available for work and what her availability might be. The employer contacted the claimant June 1, 2012, and asked her to provide a copy of her résumé and she did so. The claimant emailed the employer and stated her availability was limited to only working mornings because she was working a part-time job. On September 7, 2012, the employer called the claimant but did not receive an answer or voice mail. The employer followed up with an email and stated she called the claimant and wanted to check in to see if the claimant was still looking for work because the employer has many job opportunities now. The employer did not receive a response from the claimant and she never contacted the employer.

The issue of the claimant's separation from employment with this employer has not yet been adjudicated by the Claims Section.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not refuse a suitable offer of 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 did not make a bona fide offer of work to the claimant as “bona fide offer” is defined above. The employer never made personal contact with the claimant to offer her a specific job with details such as the client she would be working for, her position, or the wages and hours she would receive. Because the employer never made a bona fide offer of work to the claimant, the administrative law judge must conclude the claimant did not refuse a suitable offer of work. Therefore, benefits must be allowed.

The issue of the claimant’s separation from employment with this employer has not yet been investigated or adjudicated by the Claims Section. That issue is remanded to the Claims Section for an initial determination and adjudication.

DECISION:

The September 28, 2012, reference 05, decision is affirmed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible. The issue of the claimant’s separation from employment with this employer is remanded to the Claims Section for an initial determination and adjudication.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css