

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANE REISCHAUER
Claimant

APPEAL NO. 13A-UI-02304-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NPL
Employer

OC: 12/30/12
Claimant: Appellant (2)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The claimant, Jane Reischauer, filed an appeal from a decision dated February 22, 2013, reference 04. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 25, 2013. The claimant participated on her own behalf. The employer, NPL, participated by President Clair Penner and was represented by Nathan Mather.

ISSUE:

The issue is whether the claimant refused an offer of suitable work without good cause.

FINDINGS OF FACT:

Jane Reischauer was employed by Thomas Lambert PC as a part-time accounting specialist from January 16 until December 31, 2012. She worked an average of 26 hours per week at \$19.00 per hour. On January 1, 2013, that company was sold to NPL.

The claimant filed a claim for unemployment benefits with an effective date of December 30, 2012, and her average weekly wage was established at \$961.54. The president of the new company, Clair Penner, e-mailed her a job offer on January 10, 2013, offering her \$19.00 per hour for a full-time position along with additional benefits not offered by the prior owner such as vacation, retirement contributions and a cafeteria plan for pre-tax medical expenses.

Ms. Reischauer was willing to work full time but felt she should be paid more for the increase in hours. She spoke by phone with CEO James Nepple on January 16, 2013, to discuss this and he tentatively said he would consider her request for \$22.50 per hour. Mr. Nepple and Mr. Penner met to consider this and it was decided the employer could not offer her \$22.50 per hour based on her experience and seniority. A second job offer was e-mailed on January 17, 2013, offering her \$20.50 per hour. At 40 hours per week this would be \$820.00 per week.

On January 18, 2013, Ms. Reischauer declined the position in an e-mail to Mr. Penner.

REASONING AND CONCLUSIONS OF LAW:

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.

This job offer was made during the third week of Ms. Reischauer's employment claim. Even the second wage offer did not meet the requirement of being 100 percent of her average weekly wage. Under the provisions of the above Code section, this is not a suitable offer of work and the claimant is qualified for benefits.

DECISION:

The representative's decision of February 22, 2013, reference 04, is reversed. Jane Reischauer is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css