

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA L FAILOR
Claimant

APPEAL NO: 09A-UI-18331-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER TEMPORARY SERVICES
Employer

**OC: 08/23/09
Claimant: Respondent (5)**

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

The employer appealed a representative's December 1, 2009 decision (reference 02) that held the claimant qualified to receive benefits based on an October 20, 2009 employment separation. The hearing notice, however, listed the issue as a refusal to accept suitable work.

A telephone hearing was held on May 10, 2010. Prior to the hearing, the claimant's attorney contacted the Appeals Section and indicated the claimant wanted to withdraw from this appeal. Since the claimant was not the appealing party, her request to withdraw could not be granted. The claimant did not participate in the hearing. Shirley Gerald appeared on the employer's behalf.

Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant refuse an offer of suitable work on October 21, 2009?

FINDINGS OF FACT:

The claimant registered to work for the employer on March 5, 2007. On October 21, 2009, the employer offered the claimant a temp-to-hire job for a customer service position. The claimant had work experience that was applicable to the job the employer offered her. The job paid \$9.00 an hour and would have started on Monday, October 26, 2009. The claimant declined the job offer. The employer did not know why the claimant declined the job offer.

When the claimant established a claim for benefits during the week of August 23, 2009, her average weekly wage in the high quarter of her base period is \$707.00.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive benefits if she refuses an offer of suitable work without good cause. Iowa Code section 96.5-3-a. The claimant's average weekly wage from her high

quarter is \$707.00. The job the employer offered the claimant only paid her a weekly wage of \$360.00. Since a claimant is not required to accept 65 percent of her average weekly wage until she has been unemployed for 19 weeks, (Iowa Code section 906.3-5-a(4).) the job the employer offered the claimant was not a suitable job for the claimant because it only paid her 51 percent of her average weekly wage. Therefore, the claimant is not disqualified from receiving benefits for declining this job offer.

DECISION:

The representative's December 1, 2009 decision (reference 02) is modified, but the modification has no legal consequence. On October 21, 2009, the employer offered the claimant a job that was not suitable for her as the wages were too low based on the claimant's average weekly wage she earned in her high quarter. The claimant is not disqualified from receiving benefits based on her refusal to accept the employer's October 21, 2009 offer of work.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs