

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSICA A ANDERSON
Claimant

MASTERTSON PERSONNEL INC
Employer

APPEAL 14A-UI-11119-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/14/14
Claimant: Appellant (2)**

Iowa Code §96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 27, 2014 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 18, 2014. Claimant participated. Employer participated through Jim Robertson, Unemployment Operations Manager; Rachel Skogen, Branch Manager; and Jaade King, Recruiter. Employer's Exhibit One was entered and received into the record.

ISSUES:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant had one long-term assignment at Lund, an egg processing facility. When the claimant applied for work with this employer, she did not indicate at any time that she had any work restrictions that limited her standing or how many hours she could work. The claimant did indicate to the employer, when she put in her application, that she was willing to work within a 30-mile radius around Lake Mills, Iowa.

After the claimant's assignment at Lund, where she worked first shift making \$9.90 per hour, ended on September 3, 2014 she was offered two new assignments on September 4, 2014. She turned down both job assignments. The claimant now has a doctor's note that she provided to the employer on October 9 that prohibits the claimant from working 14 or 15 hours shifts. Neither of the jobs offered to claimant on September 4 would have required her to work over ten or twelve hours at most in a day. She has no work restrictions that limit her to sit down jobs only.

The claimant was offered a first shift position at Rembrandt in Thompson, Iowa as a general laborer making \$10.00 per hour at roughly 40 hours per week. According to Iowa Workforce Development Department (IWD) records the claimant's average weekly wage is \$638.51 per week. Since the offer was made to her during the first five weeks of her unemployment it is

required to be 100 percent of her average weekly wages. The Rembrandt assignment did not offer the claimant 100 percent of her average weekly wages. The claimant turned the job down because it was too far to drive for such low wages.

The claimant was also offered a position at Agillis in Albert Lea, Minnesota. The offer was for first shift work as a general laborer at \$8.00 per hour for roughly 40 hours per week. The claimant refused the assignment because the pay was too low. Since the offer was made to her during the first five weeks of her unemployment it is required to be 100 percent of her average weekly wages. The Agillis assignment did not offer the claimant 100 percent of her average weekly wages.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work.

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. 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 unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Since the claimant's average weekly wage is \$638.51, neither position offered her even came close to meeting the minimum wage requirements. Benefits are allowed.

DECISION:

The October 27, 2014 (reference 02) decision is reversed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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