

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**REYNEA OBRIEN**  
Claimant

**APPEAL NO: 12A-UI-11991-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RJK INC**  
Employer

**OC: 05-27-12**  
**Claimant: Respondent (1)**

Section 96.5(3)a – Work Refusal  
Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the September 27, 2012, reference 04, 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 31, 2012. The claimant participated in the hearing with Attorney Heather Erwin. Mike Thomas, Account 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 previously worked for this employer after she sustained a knee injury several years ago. Her position as a laborer was physically demanding. She worked 12-hour shifts and was required to climb steps and ladders as essential functions of her job. Her knee became progressively worse before she slipped going down her stairs at her home in December 2011 and tore her anterior cruciate ligament (ACL). She continued working until May 2012 until her knee problems began affecting her work and the quality of her life. She saw a doctor who diagnosed her ACL tear and determined her knee was also “bone on bone.” The last day she worked was May 12, 2012, at which time she was forced to quit due to her health conditions.

On September 5, 2012, Account Manager Mike Thomas called the claimant and offered her the previous job she held that would have included her same hours, wages and duties. The claimant declined the job because she still could not perform the job due to her knee problems and inability to work 12-hour days and climb steps and ladders. She was still unable to perform the essential functions of the job.

**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(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

The offer was unsuitable as the claimant was forced to previously quit her job with the employer, and the condition which caused the claimant to voluntarily quit her job was still in existence and prevented the claimant from being able to perform the essential functions of her job. Under those circumstances, the offer is not considered suitable under the law. Therefore, benefits are allowed.

**DECISION:**

The September 27, 2012, reference 04, decision is affirmed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs