

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHEREE A WENMAN**  
Claimant

**S & S EMPLOYMENT PARTNERS LLC**  
Employer

**APPEAL 18A-UI-09692-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/13/18**  
**Claimant: Respondent (1)**

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Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

S & S Employment Partners, LLC (employer) filed a timely appeal from the September 12, 2018, reference 02, unemployment insurance decision that allowed benefits based on the determination no offer of work was actually made to Sheree A. Wenman (claimant). After due notice was issued, a telephone conference hearing was held on October 5, 2018 and was consolidated with the hearing for appeal 18A-UI-09693-SC-T. The claimant participated. The employer participated through Partner Tammy Sanders and Recruiter Maddie Bardole. No exhibits were offered into the record.

**ISSUES:**

Was a suitable offer of work made to the claimant?  
If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The employer hires and screens employees. It will offer its employees the opportunity to be considered for open positions with its clients. Once an employee agrees to have his or her resume sent to the client, the client will review the resume and, if interested, interview the employer's employee for the position. It is only after the client interview that a job offer will be made to the employee.

The claimant was employed with the employer from June 11, 2018 until her assignment ended on August 17, 2018. Before the claimant's last assignment ended, the employer spoke to the claimant about updating her resume for an employment opportunity with its client Halverson Trane. The employer had a resume on record and the claimant gave the employer permission to send it to Halverson. The claimant reviewed the job description and believed she did not possess the necessary education as she did not have an Associate's Degree, which was one of the qualifications for the position. The employer asked, and the claimant agreed, to update her resume to accentuate her work experience as she did not possess the necessary education.

On August 20, the employer contacted the claimant again asking for an updated resume to send to its client. On August 22 and 27, the employer again left messages for the claimant regarding an updated resume to send to Halverson. The employer did not send a certified letter to the claimant extending her an offer of work. The Halverson position was eventually filled before the claimant's resume was submitted.

On September 17 and September 21, the employer attempted to contact the claimant to offer her an opportunity to have her resume reviewed by its client Business Solver. The employer believed it was leaving voice messages for the claimant. The claimant does not have record of the voice messages and denied receiving the messages. The employer did not send a certified letter to the claimant extending her an offer of work.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes no offer of work was actually communicated to claimant.

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.24(1)a provides:

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

(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 failed to make a bona fide offer of work. The employer offered the claimant the opportunity to have her resume considered by its client, but that does not constitute an offer of work. The employer argues that the claimant quit returning its phone calls regarding the Halverson position and failed to provide an updated resume. If employer is unable to make personal contact to extend an offer of work, a written offer with sufficient detail may be sent by certified mail with return receipt requested, which the employer did not and could not do since it could not guarantee Halverson would hire the claimant. Since no offer of work was actually made, benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The September 12, 2018, reference 02, decision is affirmed. The employer failed to make a bona fide offer of work to the claimant. Benefits are allowed, provided claimant is otherwise eligible.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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