

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELODY L BOWEN**  
Claimant

**APPEAL NO: 11A-UI-07335-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOLDEN CIRCLE BUS SOLUTIONS INC**  
Employer

**OC: 04 /17/11**  
**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available  
Section 95.5-3-a – Job Refusal

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated May 23, 2011, reference 01, that held she refused suitable work with the employer on April 24, 2011, and benefits are denied. A telephone hearing was held on June 28, 2011. The claimant participated. Dawn Vale, Staffing Manager, participated for the employer. Claimant Exhibit A and Employer Exhibit One were received as evidence.

**ISSUES:**

Whether the claimant refused a recall to suitable work.

Whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer on assignment at Dice.com as a customer service representative, temp-to-hire, from December 20, 2010 until she was laid off for lack of work due to completing it on April 20, 2011. The employer offered claimant a one-week assignment for clerical work at Titan Tires at \$12.00 an hour that was to begin April 25. Claimant accepted the assignment. Claimant e-mailed the employer on April 24 that she was not able to work the temp job due to taking care of personal business.

The employer had no other assignment to offer claimant at that time or thru the date of this hearing. The claimant is considered an employee. Claimant is looking for full-time work or long-term assignment work in her expertise of customer service or clerical.

## REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that claimant's assignment refusal is due to an availability issue that is disqualifying for that reason, and no job refusal disqualification is imposed. Since claimant could have worked only one week, and the employer considers her an employee, the job refusal is limited to the one-week assignment on an availability issue.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes that the claimant is not able and available for work the week ending April 30, 2011 due to placing a restriction on her employability for personal reasons.

Claimant could have worked a one-week assignment from April 24 to April 30, and she is disqualified from receiving benefits for that week, only.

**DECISION:**

The department decision dated May 23, 2011, reference 01, is modified. The claimant is disqualified for the week ending April 30, 2011, for not being able and available for work. No job refusal disqualification is imposed. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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