

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BECKY J IRWIN
Claimant

APPEAL NO. 13A-UI-06620-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

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

Section 96.5-3-a - Failure to Accept Suitable Work
Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 24, 2013, reference 02, that concluded the claimant was not subject to disqualification for failing to accept work. A telephone hearing was held on June 19, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Deb Miller participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant fail to accept an offer of suitable work without good cause?
Was the claimant able to and available for work?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer on an assignment at Montezuma Manufacturing from September 2011 to May 4, 2013. She completed her work assignment. Her rate of pay was \$14 per hour.

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 5, 2013. Her average weekly wage based on her highest quarter of earnings in her base period was \$700.00.

On May 6, 2013, the employer offered the claimant a full-time assignment working at Jeld Wen at a rate of pay of \$9.23 per hour. The job was located in Grinnell about 50 miles from the claimant's home. The employer's representative does not know if the rate of pay is comparable to the going rate of pay in the Grinnell area. The claimant declined the job because of the travel distance and a concern about her vehicle not being able to travel that far each day.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

Iowa Code Section 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....

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.

The claimant is not subject to disqualification because pay offered for the job is substantially lower than her average weekly wage of \$700.00. In addition, the employer's representative did not know if the rate of pay was comparable to the going rate of pay for similar work in the Grinnell area.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. Although the claimant was unable to travel 50 miles one-way to Grinnell there is no evidence to show that she was not actively looking for work and was available for work closer to her residence.

DECISION:

The unemployment insurance decision dated May 24, 2013, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs