

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CYNTHIA SMYSOR
Claimant

CAMELOT EDUCATION
Employer

APPEAL 15A-UI-11038-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/28/15
Claimant: Appellant (2)

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:

The claimant filed an appeal from the September 22, 2015, (reference 03) unemployment insurance decision that denied benefits based upon a refusal of work. The parties were properly notified about the hearing. A telephone hearing was held on October 16, 2015. Claimant participated. Employer did not respond to the hearing notice instruction and did not participate.

ISSUES:

Did claimant fail to accept a suitable offer of work and if so, was the failure to do so for a good cause reason?
Is the claimant able to and available for work?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant renewed her teaching license in anticipation of being laid off from her social work job and sought high school level teaching jobs. Camelot Education made a suitable offer of work to claimant on July 29, 2015, to begin on August 18, 2015. She accepted but had an offer from Iowa Jobs for America's Graduates (IJAG) on August 5, 2015. She accepted that offer because it had better pay. She began that employment on August 17, 2015. She stopped looking for work between August 5 and 17, 2015, in preparation for beginning employment with IJAG. She notified Camelot Education she was turning down their offer. No other teaching jobs would have begun employment prior to the week of August 17, 2015. Claimant was available for work had it begun earlier.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant provided a good-cause reason for having failed to accept a suitable offer of work and she was available for 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.

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 offer was suitable but claimant had found other work with better pay arranged so her failure to accept a suitable offer of work with Camelot Education is not disqualifying. Claimant was also available to work between the offers and the start dates but no work is generally available in the teaching field during those weeks.

DECISION:

The September 22, 2015, (reference 03) unemployment insurance decision is reversed. Claimant presented a good-cause reason for the refusal. Claimant was also available to work. Benefits are allowed, provided claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs