

**IOWA WORKFORCE DEVELOPMENT**  
**Unemployment Insurance Appeals Section**  
**1000 East Grand—Des Moines, Iowa 50319**  
**DECISION OF THE ADMINISTRATIVE LAW JUDGE**  
68-0157 (7-97) – 3091078 - EI

**KISHA M BRUCE**  
**1602 PARK ST**  
**HAMBURG IA 51640**

**PROFESSIONAL RESOURCES INC**  
**900 CENTRAL AVE**  
**NEBRASKA CITY NE 68410**

**Appeal Number: 04A-UI-06563-SWT**  
**OC 05/09/04 R 01**  
**Claimant: Respondent (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**STATE CLEARLY**

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-3-a - Failure to Accept Suitable Work

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated June 4, 2004, reference 03, that concluded the claimant was not subject to disqualification for refusing work on June 2, 2004. A telephone hearing was held on July 9, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Patty Schwab participated in the hearing on behalf of the employer.

**FINDINGS OF FACT:**

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer from January 22, 2003, to December 10, 2003, on a full-time, day-shift assignment at the Golden Valley Company, for which she was paid \$8.30 per hour. Golden Valley Company hired Advance Services as its staffing company and the claimant continued to work on the day shift at Golden Valley for

Advance Services until May 11, 2004, when she was laid off temporarily. Her rate of pay with Advance Services was \$9.00 per hour.

The claimant contacted the employer on April 30, 2004, because of the layoff and because she had heard about a job opening with the employer in Shenandoah that she was interested in. She was offered a full-time job as a production worker at Armstrong Cabinet, which paid \$8.80 per hour for a day-shift job. The claimant declined the job because she was still employed at Advance Services and was hoping that the job in Shenandoah would be available.

On May 18, 2004, the employer offered the claimant a full-time, night-shift production job working at Johnson Controls in Red Oak, Iowa, at a rate of pay of \$8.30 per hour. The claimant declined the job because she expected to be recalled to work by Advanced Services, she did not have day care for a night-shift job, and the job required a commute of one hour to work.

On June 2, 2004, the employer offered the claimant a full-time, night-shift production job working at Vogel's in her hometown of Hamburg, Iowa, at a rate of pay of \$8.30 per hour. The claimant declined the job because she had returned to work for Advanced Services and was not guaranteed that the job would be long term.

The claimant's average weekly wage based on the wages paid during her high quarter of earnings in her base period is \$349.85 (\$8.75 per hour).

#### 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 disqualifies claimant who failed to accept an offer of suitable work without good cause. The law requires that the work offered to a claimant provide wages of 100 percent of average weekly wage if offered during the first five weeks of unemployment. Furthermore, the unemployment insurance rules provide a claimant is not disqualified if the offer of work is made prior to the week in which the claimant filed for unemployment insurance benefits, if the claimant is currently employed at the time the offer is made, and if claimant does not reside in the area where the job was offered. 871 IAC 24.24(7) and (8).

The claimant is not subject to disqualification for refusing work on June 2, 2004, because she was employed and the wages offered were less than the statute defines as suitable work for someone unemployed for less than five weeks.

#### DECISION:

The unemployment insurance decision dated June 4, 2004, reference 03, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

saw/kjf