

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

CHRISTINE R COLLINGWOOD  
320½ WASHINGTON ST  
LISBON IA 52253

EXECUTIVE HOME CARE INC  
2115 NORTH TOWN LANE NE  
CEDAR RAPIDS IA 52402-1913

Appeal Number: 04A-UI-01768-HT  
OC: 05/18/03 R: 03  
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 – Refusal of Work

STATEMENT OF THE CASE:

The employer, Executive Home Care, Inc. (Home Care), filed an appeal from a decision dated February 11, 2004, reference 03. The decision allowed benefits to the claimant, Christine Collingwood. After due notice was issued a hearing was held by telephone conference call on March 9, 2004. The claimant participated on her own behalf. The employer participated by Operations Manager Dana Thies.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Christine Collingwood was employed by Home Care from August 13, 2003 until January 2, 2004. She was a full-time receptionist working 8:00 a.m. until 4:30 p.m. and earning \$8.75 per hour.

On October 30, 2003, the claimant was notified the receptionist position was being eliminated and the employer intended to hire an office manager. She applied for the position but on December 10, 2003, was informed by Operations Manager Dana Thies another person had been hired for the job. Ms. Thies did offer the claimant a job as a residential cleaner at \$8.00 per hour. However, cleaners are not guaranteed a certain number of hours per day because the amount of work depends on the number of houses scheduled to be cleaned. Ms. Collingwood declined the job offer on December 12, 2003, and worked until January 2, 2004, as the receptionist when the new office manager took over.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is not.

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. 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 claimant was offered a job as a house cleaner when she had been an office worker. In addition, she was not guaranteed a certain number of hours and her pay was 75 cents per hour lower. This cannot be considered suitable work given the claimant's job experience and rate of pay. In addition, although she had filed for unemployment from a prior separation in May 2003, she was not unemployed at the time the job offer was made.

DECISION:

The representative's decision of February 11, 2004, reference 03, is affirmed. Christine Collingwood is qualified for benefits provided she is otherwise eligible.

bgh/kjf