

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACKLYN M DUGGAN
Claimant

APPEAL NO. 07A-UI-06761-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 06-03-07 R: 04
Claimant: Appellant (1)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 28, 2007, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on July 26, 2007. The claimant did participate. The employer did participate through Abby Schueller, Account Coordinator.

FINDINGS OF FACT:

Abby Schueller, for the employer made an offer of work to claimant on June 7, 2007 by telephone. That offer included the following terms: Work during the second shift from 3:30 p.m. until midnight at Wady Industries in a factory position for 40 hours per week at \$8.20 per hour. Claimant's average weekly wage is \$230.32. The offer was made in the fifth week of unemployment. The claimant rejected the position because she did not want to work second shift. The claimant had not worked second shift previously for this employer and indicated on her job application that she preferred first shift work.

On June 8, 2007 Abby Schueller on behalf of the employer made an offer of work to the claimant by telephone. The offer included work in the bindery department at Maquoketa Printing during the first shift from 5:00 a.m. to 3:30 p.m. Monday through Friday at \$7.50 per hour. Claimant's average weekly wage is \$230.32. The offer was made in the fifth week of unemployment. The claimant rejected the job because she did not want to work 50 hours per week and because she did not want to have to lift up to 30 pounds. The claimant had shoulder surgery in September 2005 and did not have any medical restrictions that prohibited her from lifting. When she signed up with L.A. Leasing, she told them she preferred first shift work but did not place any restrictions on her ability to lift and no physician has restricted her ability to lift.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of 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.

The offer made on June 8 was suitable as it met the wage requirements and the first shift work. The claimant may prefer not to have to lift, but she has no medical restriction that she told the employer about that would prohibit her from lifting. The type of work was similar to that she had performed previously. The claimant's preference not to work 50 hours per week and her preference not to lift are not good-cause reasons for the refusal. Benefits are denied.

DECISION:

The June 28, 2007, reference 04, decision is affirmed. Claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs