

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY B DUNN**

Claimant

**APPEAL NO. 09A-UI-09660-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARDINAL GLASS INDUSTRIES INC**

Employer

**OC: 01/25/09**

**Claimant: Appellant (1)**

Section 96.5(3)a - Refusal of Work

**STATEMENT OF THE CASE:**

The claimant, Mary Dunn, filed an appeal from a decision dated June 29, 2009, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 22, 2009. The claimant participated on her own behalf. The employer, Cardinal Glass, participated by Human Resources Manager Lori Ramsey.

**ISSUE:**

The issue is whether the claimant refused an offer of work.

**FINDINGS OF FACT:**

Mary Dunn was employed by Cardinal Glass beginning January 10, 1999. She was laid off for lack of work effective March 8, 2009. At that time she was working full time as factory labor on the 7:00 a.m. to 3:00 p.m. shift and earning \$14.25 per hour.

On April 30, 2009, Human Resources Manager Lori Ramsey contacted the claimant to offer her a temporary recall to work. It would have been the same job, hours and wages she had prior to the layoff. But the recall was for a minimum of six weeks while another employee was on medical leave. The claimant declined the next day because she was under the impression it was not full-time work and she did not have to accept it as her base period wages were earned in full-time work.

**REASONING AND CONCLUSIONS OF LAW:**

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 suitable work with Cardinal Glass, but declined as it was only for a guaranteed six-week period. An offer of temporary work is not, as a matter of law, unsuitable. Suitability of work is a question of fact, and the temporary nature of the work offered is one fact which may be considered in evaluating the suitability of that work. *Norland v. IDJS*, 412 N.W.2d 904 (Iowa 1987). The job is considered suitable as it is exactly the same job she held for ten years prior to the lay off in March 2009. The claimant's refusal was without good cause and she is disqualified.

**DECISION:**

The representative's decision of June 29, 2009, reference 02, is affirmed. Mary Dunn is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs