

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALISSA M BILLS

Claimant

APPEAL 14A-UI-12235-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEALTHY CONNECTIONS INC

Employer

OC: 08/10/14

Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed an appeal from the November 25, 2014, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 16, 2014. Claimant participated. Employer participated through Rachel Owens, Assistant Executive Director.

ISSUE:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed beginning on April 15, 2013 full time as a care provider working the overnight shifts Monday through Thursday from 10 pm until 8 am up until July 21, 2014 when she was laid off due to lack of work. During the entire period of her employment the claimant worked overnights to accommodate her family schedule. She would only occasionally or as needed help out during day hours if one of her coworkers happened to be absent.

The employer offered the claimant a new position, but the hours were from 6 am to 6 pm. The claimant turned down the position due to the fact that they were daytime hours and she was hired to work overnights.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not 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 was unsuitable, as it was for a work schedule that the claimant had never previously worked. The claimant was hired with the understanding that she would work overnight and always did so. Since she was offered daytime hours, the offer is considered to be unsuitable. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The November 25, 2014, reference 01, decision is affirmed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css