

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**QIANA M FLOYD**  
Claimant

**SEDONA STAFFING INC**  
Employer

**APPEAL 21A-UI-02835-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/24/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(3)A – Failure to Accept Work

**STATEMENT OF THE CASE:**

On January 9, 2021, the claimant, Qiana M. Floyd, filed an appeal from the January 5, 2021 (reference 04) unemployment insurance decision that denied benefits based upon a determination that claimant refused an offer of work from employer Sedona Staffing, Inc. on September 23, 2020. The parties were properly notified of the hearing. A telephonic hearing was held on Thursday, March 11, 2021. The claimant, Qiana M. Floyd, participated. The employer, Sedona Staffing, Inc., participated through Colleen McGuinty, UI Admin; and Joe Vermeulen, Area Manager. Employer's Exhibit 1 was received and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Was a suitable offer of work made to the claimant?

If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant via telephone by Tara, an account manager, on September 23, 2020. That offer was for claimant to begin working as soon as possible in a full-time position on first shift as a sort line worker. The position was located at Dittmer Recycling in Dubuque, Iowa. The wage offered for the job is \$10.00, which is \$2.00 per hour less than what claimant earned at her last assignment through the employer. Claimant's average weekly wage is \$349.48. The offer was made in the thirteenth through eighteenth week of unemployment. When Tara offered this work to the claimant, claimant responded that she was refusing the offer because she was going back to her old job.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept 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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

**(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.**

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.23(20) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

Iowa Admin. Code r. 871-24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact section above demonstrates how I have resolved the credibility issues in this case. Claimant's denials of receiving an offer of work from the employer are not credible. The employer produced documentation contemporaneous with the offer that was made and the refusal that was received from claimant. There was no logical explanation offered for why this would exist if the offer had not actually been extended.

Here, the credible testimony in the record indicates claimant was offered work on September 23, 2020. Claimant refused that offer of work as she was holding out for a position with her former employer. It remains unclear whether she was waiting to be recalled to Nordstrom or whether she was waiting to be recalled to a different employer. Regardless, claimant refused a suitable offer of work, paying more than 70% of her average weekly wage for the same type of work she did for this employer previously at a different assignment. Claimant has not established a good cause reason for the failure to accept it.

**DECISION:**

The January 5, 2021, (reference 04) unemployment insurance decision is affirmed. Claimant failed to accept 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.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

March 15, 2021  
Decision Dated and Mailed

lj/scn