

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRENDA J HASTINGS
Claimant

A&M SERVICES INC
Employer

APPEAL 17A-UI-10108-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/01/17
Claimant: Appellant (1R)

Iowa Code § 96.5(3)a – Failure to Accept Work
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 25, 2017, (reference 06) unemployment insurance decision that denied benefits based on her refusal to accept a suitable offer of work. The parties were properly notified of the hearing. A telephone hearing was held on October 18, 2017. The claimant participated and testified. The employer participated through General Manager Ryan Kasperbauer. Official notice was taken of the administrative record.

ISSUE:

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: Claimant was employed by this employer for approximately 20 years when she suffered an injury that prevented her from working. When claimant attempted to return to work after recovering from her injury, she was told no work was available and she was separated from employment. Claimant filed a claim for unemployment insurance benefits with an effective date of January 1, 2017. Claimant's average weekly wage is \$305.73. On April 19, 2017, claimant's 16th week of unemployment, the employer called claimant and offered her work at the same hours and wages she had at the time of her separation. Claimant declined the offer, as she felt she had been mistreated by the employer when it refused her work following her recovery from her injury.

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 section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The claimant had worked for this employer for approximately 20 years in January 2017. Claimant was understandably hurt by the employer when she, a long term employee, tried to return to work following an injury and was told no work was available. On April 19, 2017, during claimant's 16th week of unemployment, the employer called and offered claimant work at the same hours and wages as she was working when she was separated. The offer was suitable as it was with the same employer, for her same pay, and with her same hours. While the

claimant may have had good personal reasons for not accepting the work, she has not shown a good cause reason for the failure to accept it. Accordingly, benefits are denied.

Information in the administrative record indicates claimant may have been overpaid unemployment insurance benefits in the time since she refused the suitable offer of work. This issue must be remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

DECISION:

The September 25, 2017, (reference 06) 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.

REMAND:

The issue of whether claimant has been overpaid benefits is remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/scn