

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA G WRIGHT
Claimant

APPEAL NO. 10A-EUCU-00212-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACTION STAFFING SERVICES INC
Employer

**Original Claim: 04-06-08
Claimant: Appellant (2)**

Iowa Code § 96.5(3)a – Work Refusal
Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 18, 2010, reference 08, decision that denied benefits. After due notice was issued, a hearing was held on May 7, 2010. The claimant did participate. The employer did participate through Elle Soundara, Executive Assistant. Claimant's Exhibit A was entered and received into the record.

ISSUE:

Did the claimant refuse a suitable offer of work and is she able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was assigned to work at FLI beginning on September 14, 2009 through October 2, 2009, when she was discharged from the assignment due to missing work to care for her ill child. She provided a doctor's note indicating she needed to be off to care for the child and did notify Action Staffing. She was not offered any other jobs or assignments until right before her fact-finding interview in March 2010. When she was hired, the claimant told the employer that she needed mother's hours, long-term assignments, or temp-to-hire assignments, and that she needed 24 to 48 hours of notice before starting an assignment, as she had to make arrangements for child care. No suitable offers of work were made to the claimant after her assignment at FLI ended on October 2, 2009.

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.

No offers were made to the claimant in September 2009. No offer was made to the claimant until March 2010, and it was for work the claimant had already performed that she was not successful at. The offer was unsuitable, as it was not long-term, and the employer did not give the claimant time to arrange for child care. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The March 18, 2010, reference 08, decision is reversed. 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/kjw