

**AMENDED  
IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**BRENDA TORRES**  
Claimant

**WILLIAM RIEKEN**  
Employer

**APPEAL NO. 17R-UI-02280-JE-T**

**AMENDED  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/31/16  
Claimant: Respondent (2)**

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Iowa Code § 96.5-3-a – Work Refusal  
Iowa Code § 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 22, 2016, reference 08, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 24, 2017. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. William Rieken, Owner, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant refused a suitable offer of work.

**FINDINGS OF FACT:**

The claimant previously worked for the employer as a CNA from April 13, 2015 through January 30, 2016. The claimant voluntarily left her employment stating she was going to school and the hours would no longer work for her. The employer made an offer of work to the claimant November 24, 2016, during a personal phone call with the claimant. That offer included the following terms: A 6:00 a.m. to 2:00 p.m. or 2:00 p.m. to 10:00 p.m. shift at a nursing home or hospital, two of which were in South Sioux City and one of which was in Sergeant Bluff, both areas the claimant had indicated she was available to work. The claimant's average weekly wage is \$445.51. The offer was made in the third week of unemployment. Consequently, the wage offered must equal or exceed 100 percent of her average weekly wage. The wage offered in this case was \$13.00 per hour or \$520.00 per week, thus meeting the wage requirement. The claimant refused the offers stating she was not looking to pick up shifts at that time and she did not have reliable transportation.

### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did 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. (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 offer was suitable as it met the wage requirements, offered hours the claimant previously stated she was available to work, was in locations the claimant previously worked for the employer, and the claimant did not have a good-cause reason for the refusal. Therefore, benefits are denied.

**DECISION:**

The December 22, 2016, reference 08, decision is reversed. The claimant did refuse 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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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/rvs