

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIN N WOLFF

Claimant

APPEAL NO. 15A-UI-14130-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARION INDEPENDENT SCHOOL DIST

Employer

OC: 11/15/15

Claimant: Respondent (1)

Iowa Code Section 96.5(3) – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 21, 2015, reference 03, decision that allowed benefits to the claimant provided she meets all other eligibility requirements, based on an Agency conclusion that the Marion Independent School District did not make an offer of employment on May 1, 2015. After due notice was issued, a hearing was held on January 14, 2016. Claimant Erin Wolff participated. Greg Semler represented the employer. Department Exhibits D-3 and D-4 were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, DBIN, the reference 01-05 decisions entered in connection with the November 16, 2014 claim year, the reference 01-04 decisions entered in connection with the November 15, 2015 claim year.

The administrative law judge notes a second reference 03 decision, dated December 18, 2015 in the administrative file. That second reference 03 decision was not docketed in the Agency docketing system, does not appear to have been mailed to the parties, and appears to have been drafted in error. The present decision addresses only the reference 03 decision mailed to the parties on December 21, 2015.

ISSUE:

Whether the claimant refused an offer of suitable work with the Marion Independent School District on or about May 1, 2015.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Erin Wolff established a new claim year that was effective November 15, 2015. Ms. Wolff's base period for purposes of the new claim year consists of the third and fourth quarters of 2014 and the first and second quarters of 2015. Ms. Wolff's base period employers for purposes of the new claim year are Ocwen Loan Servicing, L.L.C., and Marion Independent School District. Ms. Wolff was laid off from her full-time employment with Ocwen in November 2014. Ms. Wolff worked for the Marion Independent School District as a part-time seasonal color guard assistant/choreographer from July 2014 to August 2, 2014, at which time she performed all the work the employer had

for her. The District did not offer additional work to Ms. Wolff after August 2, 2014. The District did not make any offer of employment to Ms. Wolff on or about May 1, 2015.

On December 2, 2015, Workforce Development entered a reference 02 decision that approved Ms. Wolff for Department Approved Training status for the period of November 15, 2015 through December 12, 2015. On December 17, 2015, Workforce Development approved Ms. Wolff for Department Approved Training for the period of November 15, 2015 through April 30, 2016. In January 2015, Ms. Wolff began full-time college coursework in accounting at the University of Northern Iowa. Ms. Wolff continued in her full-time studies at the time of the January 14, 2016 appeal hearing.

Ms. Wolff had established a prior claim year that was effective November 16, 2014. The claim was established in response to Ms. Wolff's separation from her full-time employment with Ocwen Loan Servicing, L.L.C. The claim year that started in November 2014 continued to be in effect until it expired on November 14, 2015. Ms. Wolff's most recent employment with the Marion Independent School District occurred the prior particular claim year. Ms. Wolff's base period for purposes of that prior claim year consisted of the third and fourth quarters of 2013 and the first and second quarters of 2014. Ms. Wolff's sole base period employer for purposes of that claim year was Ocwen Loan Servicing, L.L.C. Marion Independent School District was not a base period employer for purposes of the claim that was in effect for November 16, 2014 through November 14, 2015. Because the District was not a base period employer for purposes of that claim year, the District was not subject to being charged for benefits paid to Ms. Wolff in connection with that claim year.

The District first learned that Ms. Wolff had filed a claim for benefits, and first learned of the District's potential liability for benefits in connection with the new claim year, when the District received the notice of claim that Workforce Development mailed to the District on November 24, 2015. That notice of claim concerned the new claim year that began November 15, 2015. On December 4, 2015, the District filed a protest in response to the notice of claim. There was a miscommunication between Greg Semler, Principal of Marion High School, and John Donner, Business Manager, that led Mr. Donner to erroneously assert in the protest that Ms. Wolff had refused work in May 2015. The employer did not assert any other basis for relief of liability for charges other than the purported work refusal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Code section 96.5(3) provides that a claimant who refuses an offer of suitable work without good cause at a time when the claimant has an active claim for benefits is disqualified for

unemployment insurance benefits until the claimant works in and is paid wages for insured work equal to 10 times her weekly benefits.

Iowa Code section 96.4(6) provides as follows:

a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

There was not offer of work in May 2015 and no refusal. Accordingly, there would be no basis for disqualifying Ms. Wolff for benefits based on a work refusal.

Ms. Wolff has been approved for department approved training status for the period beginning November 15, 2015 through April 30, 2016. So long as Ms. Wolff continues to make satisfactory progress in her studies she is not required to be able and available for work, to conduct a work search, or to accept an offer of work during the department approved training period. Ms. Wolff is eligible for benefits provided she is otherwise eligible. No employers account is charged for benefits paid to a claim for a period when the claimant is participating in department approved training. Accordingly, the Marion Independent School District will not be charged for benefits during the period of department approved training.

DECISION:

The December 21, 2015, reference 03, decision is affirmed. The Marion Independent School District did not make an offer of employment in May 2015. The claimant is eligible for benefits provided she is otherwise eligible. The employer's account will not be charged for benefits for the period during which the claimant is participating in department approved training.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css