

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MARY A DOUGLAS**  
Claimant

**TEMP ASSOCIATES-BURLINGTON INC TE**  
Employer

**APPEAL 17A-UI-01851-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/22/16**  
**Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

The employer filed an appeal from the February 15, 2017, (reference 02) unemployment insurance decision that allowed benefits based upon refusing an offer of work. After due notice was issued, a telephone conference hearing was held on March 10, 2017. Claimant did not participate. Employer participated through account manager Jane Brown. Employer's Exhibit 1 was received.

**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 on January 31, 2017. That offer included the following terms: an assignment at Skyline as a full-time general laborer. The wage offered for the job is \$8.75 per hour, which is the same rate claimant earned working in the same position earlier in the year. Claimant's average weekly wage is \$339.02. Claimant was laid off on January 26, 2017. Therefore, the offer was made in the first week of unemployment.

Claimant declined the offer of work without giving a reason.

**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.

Cases of "refusal of suitable work without good cause" are subject to a two-step analysis. A determination must be made regarding whether the work was suitable, and if it was, whether claimant has good cause for refusal. Iowa Admin. Code 871—24.24(3).

The employer has the burden of proving the offer was suitable. Iowa Code § 96.5(3)a(1) provides:

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.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

If the offer was suitable, the claimant has the burden to establish the offer was refused for "good cause." "Good cause for refusing work must involve circumstances which are real, substantial, and reasonable, not arbitrary, immaterial, or capricious." *Norland v. IDJS*, 412 N.W.2d 904, 914 (Iowa 1987).

In this case, the offer was suitable as claimant had previously worked in the same position for the same rate of pay at the same location, and the weekly wage exceeded claimant's average weekly wage and she was in her first week of unemployment. Furthermore, claimant did not have a good cause reason for the failure to accept the offer of work.

**DECISION:**

The February 15, 2017, (reference 02) unemployment insurance decision is reversed. Claimant failed to accept a suitable offer of work on January 31, 2017. 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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Christine A. Louis  
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Decision Dated and Mailed

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