

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E ELLIOTT

Claimant

APPEAL NO: 12A-UI-08710-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL

Employer

OC: 07/03/11

Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Refusal of Suitable Work

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed the claimant's receipt of continuing benefits because she refused the employer's September 22, 2011 offer of work. Instead of sending the issue of whether the claimant refused an offer of work the employer raised to the Claims Section, the Appeals Section set up appeals on determinations issued on September 26, 2011 (reference 03) and on July 18, 2012 (reference 02). Both determinations held the claimant eligible to receive benefits based on an August 29, 2011 employment separation. The employer did not appeal the August 29, 2011, employment separation. The two appeals the Appeals Section set up, 12A-UI-08710-DWT and 12A-UI-08711-DWT should not have been set up as appeals.

Since the employer only wanted a September 22, 2011 refusal of suitable work offer addressed, both parties agreed to waive advance notice of this issue. This means the issues on the hearing notice were incorrect and the only issue is addressed is whether the claimant remains eligible to receive benefits after she refused the employer's September 22, 2011 offer of work. The issues noted on the hearing notice for this appeal - timeliness of appeal and the reasons for the August 29, 2011 employment are not issues for either appeal.

The claimant participated in the hearing. Kayla Neuhalfen, the human resource representative, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant remains qualified to receive benefits as of September 22, 2011, because she refused an offer of work that was not suitable for her.

ISSUE:

On September 22, 2011, did the claimant refuse an offer of suitable work?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of July 3, 2011. Her average weekly wage during her high quarter of her base period on this claim was \$616.00. Her maximum weekly benefit amount was \$348.00.

The claimant's August 29, 2011 employment separation did not disqualify her from receiving benefits. The claimant worked as a general laborer at the most recent job the employer assigned to her.

On September 22, 2011, the employer offered the claimant a job at DKM as a general laborer. The job paid \$9.00 an hour. The claimant declined this job because she received more money from her weekly benefit amount than she would have earned in net wages. Also, the claimant was waiting for another job that would pay her \$12.00 an hour. The claimant asked the employer if there any other jobs that paid more than \$9.00 an hour and the employer told her no.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she refuses an offer of suitable work without good cause. Iowa Code § 96.5(3). One factor that must be considered in determining if a job offer is suitable is the wage the job pays. When a claimant is offered a job within the first five weeks of unemployment, a suitable job must pay 100% of her average weekly wage in the highest quarter of her base period. If a claimant is offered a job during the 6th through 12th weeks of unemployment, the wages must equal 75% of the claimant's average weekly wage in the highest quarter of her base period. Iowa Code § 96.5(3)a.

The claimant's weekly wage in her high quarter on her July 2011 claim was \$616.00. The claimant would only earn gross wages of \$360.00 if she had accepted the job the employer offered her on September 22, 2011. Even if you consider the job offer was made during the 6th to 12th week of unemployment, to constitute a suitable job the claimant needed to earn \$462.00 in weekly wages. Based on the claimant's average weekly wage in the high quarter of her base period, the job the employer offered her on September 22 was not suitable. Therefore, the claimant remains qualified to receive benefits even though she declined this job offer.

Even though the employer did not know the claimant was receiving benefits, in the future the employer should report a job refusal to the Department immediately so this issue can be timely addressed. Timely notification could prevent a claimant from receiving a very large overpayment.

DECISION:

The representative's September 26, 2011 determination (reference 03) remains the same since the employer did not appeal this determination. The employer's September 22, 2011 offer of work was not suitable for the claimant based on the wages the job paid and the claimant's average weekly wage in her high quarter. The claimant refused the employer's September 22 offer of work that was not suitable for her. She remains qualified to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs