

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LORI K BARNETT**  
Claimant

**APPEAL NO. 09A-UI-06003-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LITTLE TYKES PRESCHOOL**  
Employer

**OC: 02/08/09**  
**Claimant: Respondent (1)**

Section 96.5-3-a - Failure to Accept Suitable Work

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated April 14, 2009, reference 02, that concluded the claimant was not subject to disqualification for failing to accept work. A telephone hearing was held on May 14, 2009. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Rochelle Nelson participated in the hearing on behalf of the employer.

**ISSUE:**

Did the claimant fail to accept an offer of suitable work without good cause?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits effective February 8, 2009. Her average weekly wage based on the highest quarter of earning in her base period was \$428.94 at the time she filed her claim.

The claimant worked for the employer in the preschool and childcare center for a couple of weeks in February and March 2009, but was then laid off for lack of work around March 3. The claimant was working about 30 to 35 hours per week at a rate of pay of \$6.70 per hour.

The claimant filed an additional claim for benefits effective March 8, 2009.

On March 22 the employer offered the claimant work starting on March 23. She would have been performing the same job, at the same rate of pay, and for approximately the same number of hours per week. The claimant initially accepted the offer of work, but declined the job the following day because of some health issues.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

## **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

Iowa Code section 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....

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.

The claimant is not subject to disqualification for failing to accept the job with the employer because the wages offered were unsuitable under Iowa Code section 96.5-3-a.

The claimant remains disqualified based on her voluntarily quitting employment on February 5, 2009.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, charges to the employer's account will be decided by the state of Nebraska.

**DECISION:**

The unemployment insurance decision dated April 14, 2009, reference 02, is affirmed. The claimant is not subject to disqualification for failing to accept suitable work with the employer.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs