

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARRIE L BROWN**  
Claimant

**APPEAL NO. 12A-UI-10563-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 07/22/12**  
**Claimant: Appellant (5)**

Section 96.5-3-a – Refusal to Accept Suitable Work  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Carrie Brown (claimant) appealed a representative's August 28, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she refused an offer of suitable work with Express Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 26, 2012. The claimant participated personally. The employer participated by Ashley Boffeli, Staffing Consultant.

**ISSUE:**

The issue is whether the claimant refused suitable work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired by the employer, a temporary agency, on March 19, 2012. She was assigned to work as a full-time production editor at McGraw-Hill. On July 23, 2012, the employer called the claimant and offered her a different position at McGraw-Hill earning less per hour and starting on July 30, 2012. The claimant refused the position because she was already working for the company and did not understand why the employer would offer her a different position. On July 27, 2012, the claimant discovered that she was laid off from McGraw-Hill. She did not know she would be laid off on July 27, 2012, on July 23, 2012, when she refused the position starting July 30, 2012. The claimant filed for unemployment insurance benefits for the benefit week ending July 28, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant is able and available for work. For the following reasons the administrative law judge concludes the claimant was not able and available for work at the time of the offer. Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4).

871 IAC 24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant refused work with the employer because the employer had the claimant working full-time. The claimant could not work another job because she was working to such an extent as to remove her from the work force. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work for the week ending July 28, 2012.

**DECISION:**

The representative's August 28, 2012 decision (reference 01) is modified with no effect. The claimant is disqualified from receiving unemployment insurance benefits for the week ending July 28, 2012, due to unavailability.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs