

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

GAYLE R BUSH
Claimant

APPEAL NO. 17A-UI-05466-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 04/09/17
Claimant: Appellant (1)

Section 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Gayle Bush (claimant) appealed a representative's May 22, 2017, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she refused suitable work with L. A. Leasing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 9, 2017. The claimant participated personally. The employer participated by Colleen McGuinty, Unemployment Insurance Administrator, and Carrie Balcaen, Industrial Account Manager.

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 employer is a temporary employment service. The claimant performed services from March 20, 2017, through April 11, 2017.

She filed a claim for unemployment insurance benefits with an effective date of April 9, 2017. The claimant's highest quarter of wages during her base period was the fourth quarter of 2016, during which her wages totaled \$5,178.00. The claimant's average weekly wage during her highest quarter of wages was \$398.42.

On May 2, 2017, the employer offered the claimant two full-time jobs. One job paid \$577.20 per week. The other paid at least \$400.00 per week. The claimant refused both offers of work because, among other reasons, she did not have transportation.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for work. 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).

Iowa Admin. Code r. 871-24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

The claimant did not have transportation to get to a job. When a claimant's has no means of transportation to employment, the claimant is not available for work. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

The claimant refused an offer of suitable work.

Iowa Code § 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. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

The work was offered within five weeks of the claimant's unemployment and was required to provide the claimant wages 100 percent of those paid to the claimant during the highest quarter of her base period. The evidence establishes the claimant would have received at least 100 percent of her average weekly wages during her highest quarter of earnings. Based on the factors found in Iowa Code Section 96.5-3-a, the work offered to the claimant was suitable work. Benefits are denied.

DECISION:

The representative's May 22, 2017, decision (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she is not available for work and she refused suitable work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs