

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BLANCA AZPETIA**

Claimant

**APPEAL NO: 12A-UI-00814-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**

Employer

**OC: 04/17/11**

**Claimant: Respondent (2)**

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

Iowa Code § 96.4(3) – Able to and Available for Work

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's January 12, 2012 determination (reference 02) that held the claimant qualified to receive benefits because the employer had not offered her work on December 16, 2011. The claimant participated at the hearing. Holly Carter and Raquel Palomina appeared on the employer's behalf. Ike Rocha interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

**ISSUES:**

As of December 16, was the claimant able to and available for work?

Did the employer offer the claimant work that she refused?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant registered to work with the employer. The employer assigned her to a job at Cloverleaf Cold Storage on November 11, 2011. The claimant was laid off from this assignment on December 13.

The claimant reopened her claim for benefits during the week of December 11, 2011. Cloverleaf Cold Storage contacted the employer and wanted the claimant to return to work, the same job, on December 17. Palomino called the claimant's phone number and talked to a female on December 16. The female identified herself as the claimant. The claimant declined this job because she already reopened her claim for benefits.

The claimant filed unemployment insurance claims for the weeks ending December 17, 2011, through February 18, 2012. She received a gross payment of \$3,749.00 in benefits for these weeks.

**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)a. Before a claimant can be disqualified from receiving benefits based on a work offer, she must be able to and available for work. 871 IAC 24.24(4). The evidence establishes the claimant was able to and available e for work. The fact the claimant reopened her claim for benefits, presumes she is able to and available for work. Also, each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). The claimant started filing weekly claims the week of December 11, 2011.

The claimant's mere assertion that Palomino did not talk to her on December 16 is not supported by any other evidence. Palomino's testimony that she talked to the claimant is credible. Based on the testimony presented at the hearing, Palomina, the employer's representative, asked the claimant to return to the same job she had been working at Cloverleaf Cold Storage on December 17 and the claimant declined this offer of work. Since the claimant had been doing this job, without any problems, the facts establish the claimant declined the offer to return to work without good cause. As of December 17, 2011, the claimant is not qualified to receive benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3(7). Since the claimant is not eligible to receive benefits as of December 11, 2011, she has been overpaid \$3,749.00 in benefits that she is required to repay.

**DECISION:**

The representative's January 12, 2012 determination (reference 02) is reversed. Even though the claimant was able to and available for work, she declined, without good cause, the employer's offer to return to work at Cloverleaf Cold Storage on December 17, 2011. The claimant is disqualified from receiving unemployment insurance benefits as of December 11, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The claimant has been overpaid \$3,749.00 in benefits she received for the weeks ending December 17, 2011, through February 18, 2012. The claimant is required to repay this amount to the Department.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css