

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMIE-LEE M WAGNER**  
Claimant

**WORKSOURCE INC**  
Employer

**APPEAL NO: 13A-UI-04588-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/14/12**  
**Claimant: Appellant (4)**

Section 96.5-3 – Able and Available  
Section 96.4-6a – Division Approved Training  
Section 96.5-3 – Job Refusal

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated April 10, 2013, reference 03, that held she refused to accept suitable work on March 28, 2013, and benefits are denied. A telephone hearing was held on May 28, 2013. The claimant participated. Heather Parson, Account Manager/CSP, participated for the employer.

**ISSUES:**

Whether the claimant is able and available for work.

Whether claimant is granted Division Approved Training (DAT).

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record finds: The employer offered claimant a second shift full-time production worker job on March 28, 2013. It would pay claimant \$11.76 an hour for a 48-hour work week. Her average weekly base period wage is \$472.80.

The department issued a February 11, 2013 decision reference 02 that granted claimant DAT for the period from February 13, 2013 thru April 27. Claimant declined the employer job offer as it conflicted with her para-educator class schedule.

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

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.4-6-a-b provides:

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. § 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

The administrative law judge concludes claimant is eligible for benefits due to DAT as she is not required to accept employment during this period from February 13, 2013 thru April 27. No employer's account is charged for UI benefits during this period.

**DECISION:**

The department decision dated April 10, 2013, reference 03, is modified. The claimant is eligible for benefits as she is not required to accept work during a period of DAT. No employer account is charged for benefits.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs