

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE L WHITEHEAD
Claimant

APPEAL NO: 14A-UI-05026-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MC RAE APPRAISALS INC
Employer

OC: 04/13/14
Claimant: Appellant (2)

Iowa Code § 96.5(3)a – Refusal of Offer of Work
Iowa Code § 96.4(3) – Ability to and Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 7, 2014 determination (reference 02) that disqualified her from receiving benefits as of May 5, 2014, because she refused the employer's recall to work. The claimant participated at the July 7 hearing with her attorney, Erin Lyons. David McRae, the president, appeared on on the employer's behalf. During the hearing, Employer Exhibit One and Claimant Exhibit A were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits,

ISSUES:

Did the claimant decline the employer's offer to return to work without good cause?

Did the employer offer the claimant a suitable job?

FINDINGS OF FACT:

The claimant started working for the employer in 2005. She worked an average of 35 hours a week. When business was slow, she worked an average of 20 hours a week. The employer paid the claimant an hourly wage of \$11.

The claimant went on maternity leave in early January 2014. The employer assumed she would again be off work about four months. The claimant contacted the employer in late March to let the employer she was ready to return to work. During this phone call the employer told the claimant he did not have any work for her to do, at least then.

The claimant established a claim for benefits during the week of April 13, 2014. Based on wages in her base period, the claimant's average weekly wage in her high quarter was \$667.

On April 21, the employer sent the claimant a letter asking her to return to work on May 5, 2014. The employer informed the claimant she would work one hour a day, Monday through Friday, but if the volume of orders increased, she could work two hours a day. (Employer Exhibit One.)

When the claimant received the employer's letter, she did not consider it a sincere or suitable offer to return to work. The claimant has two children that she incurs child care expenses when she works. (Claimant Exhibit A.). The claimant did not respond to the employer's offer of work and she did not return to work on May 5, 2014.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she declines an offer of suitable work without good cause. Iowa Code § 96.5(3)a. The law requires that for an offer of work to be suitable, the gross weekly wages a claimant will gross each week must be equal to 100 percent during the first five weeks of unemployment and 65 percent after the 18th week of unemployment. Iowa Code § 96.5(3)a.

Since the claimant's average weekly wage in the high quarter of her base period is \$667, the employer's offer of work cannot be considered suitable even if the claimant had been unemployed for 18 weeks. The maximum amount the employer offered the claimant was \$220 a week if she worked 20 hours and 65% of her average weekly wage in the high quarter of her base period is \$433. The claimant established she was able to and available for work, but the employer's offer of work was not suitable for the claimant under the unemployment insurance laws. As of May 4, the claimant remains qualified to receive benefits.

DECISION:

The representative's May 7, 2014 determination (reference 02) is reversed. Even though the claimant was able to and available for work, the employer's offer to return to work was not suitable for the claimant. The claimant declined the employer's offer to return to work for good cause. As of May 5, 2014, the claimant remains qualified to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs