

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAULETTE K RUSSELL
Claimant

APPEAL NO: 07A-UI-07436-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN ORDNANCE LLC
Employer

OC: 04/29/07 R: 04
Claimant: Appellant (1)

Section 96.5-3-a – Refusal of Suitable Recall

STATEMENT OF THE CASE:

Paulette K. Russell (claimant) appealed a representative's July 31, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after she refused American Ordnance's (employer) recall to suitable work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 20, 2007. The claimant participated in the hearing. Chuck Griffin, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was the claimant able and available for work on June 6, 2007?

Did the claimant refuse a recall to suitable work?

FINDINGS OF FACT:

The claimant went back to work for the employer on September 26, 2005. Since claimant had worked for the employer in the 60's and 70's, she decided to return to work so she would have ten years with the company. She hoped she would be covered under the employer's pension plan.

In September 2005, the employer rehired the claimant as a P-1 operator. On February 12, 2007, the claimant was reclassified as an M-5 or melt operator. The claimant did not like working as a melt operator because it was hot and heavy work. The employer assigned the claimant to work as a melt operator as a result of reducing the number of employees.

On April 26, 2007, the claimant was laid off from work because the employer again reduced the number of employees. The claimant had seniority and was eligible to be recalled to work. On June 6, 2007, the employer called the claimant and asked her to return to work. The person calling the claimant indicated she thought the claimant would return to work as a melt operator. When employees are called back to work, the employer has no idea if the employee will work as

an M-5 or P-1 operator. Work is assigned in accordance with the union contract and an employees' seniority.

The claimant declined the recall to work because she did not want to work as a melt operator. She considered herself too old to do that hot and heavy work. Later, the claimant learned she would have been assigned to work as a P-1 operator. If the claimant had known she would work as a P-1 operator, she would have returned to work when the employer recalled her.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code section 96.4-3. The facts establish the claimant was able to and available for work. A claimant is not qualified to receive unemployment insurance benefits if she refuses a recall to return to work without good cause. Iowa Code section 96.5-3-a.

The facts establish the claimant's employer recalled her to return to work on June 6, 2007. The employer's representative told the claimant she was not positive but thought the claimant would return to work as a melt operator, the same job the claimant had been doing since February 12, 2007. The claimant did not like this job. The claimant declined the recall because she did not want to work as melt operator. The claimant later learned that if she had returned to work, she would have worked as a P-1 operator, which is what she wanted to do. Based on the facts in this case, the claimant refused a recall to return to her former job for reasons that disqualify her from receiving benefits. As of June 10, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's July 31, 2007 decision (reference 01) is affirmed. The claimant refused a recall to her former job for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 10, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs