

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COLE H THOMPSON

Claimant

APPEAL NO: 14A-UI-00819-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PREMIER HOME CARE LLC

Employer

OC: 12/29/13

Claimant: Respondent (1)

Section 96.4-3 – Able and Available

Section 95.5-3-a – Job Refusal

STATEMENT OF THE CASE:

The employer appealed a department decision dated January 14, 2014, reference 01, that held it did not offer work to claimant on March 19, 2013 when there was no unemployment claim, and benefits are allowed. A telephone hearing was held on February 10, 2014. The claimant did not participate. Alison Stevens, Marketing (General) Manager, participated for the employer.

ISSUES:

Whether claimant refused an offer of suitable work.

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant began work for the employer on February 2, 2013 as an on-call home care giver. Claimant failed to respond to an on-call assignment on March 19, and report to a mandatory meeting on March 21.

The employer reached an emergency information contact on March 26 and it learned claimant had accepted other employment. The employer made no offer of further work to claimant.

Claimant was not available when called at the C2T control record number and did not call in during the hearing. Claimant did not claim for or receive any benefits as of the date of this hearing after filing the December 29, 2013 unemployment claim.

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 96.5-3-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. 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:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

The administrative law judge concludes claimant had no benefit claim when the employer offered work on March 19, 2013, and benefits are allowed. There is no benefit disqualification for an offer of work when claimant has no benefit claim on file.

The administrative law judge further concludes there is no issue of work availability based on claimant's December 29, 2013 claim.

DECISION:

The department decision dated January 14, 2014, reference 01, is affirmed. The claimant is not disqualified for refusing a recall to suitable work, and there is no availability disqualification. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs