

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LESLIE A CRAWFORD**  
Claimant

**APPEAL NO. 10A-UI-02583-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KELLY SERVICES INC**  
Employer

**Original Claim: 07/05/09  
Claimant: Appellant (2)**

Section 96.5-3-a – Offer of Suitable Work

**STATEMENT OF THE CASE:**

Leslie Crawford filed a timely appeal from a fact-finder's determination dated February 8, 2010, reference 01, holding her ineligible to receive unemployment insurance benefits upon a finding that the claimant refused an offer of suitable work with Kelly Services on January 18, 2010. After due notice, a telephone conference hearing was held on March 31, 2010. The claimant participated personally. Participating as a law student intern was Mr. Joshua Brody. Mr. Brody was under the supervision of Mr. Rod Kleitsch, attorney of Legal Aid Society of Iowa. The employer participated by Nancy Voelker. Claimant's Exhibits A through D were received into evidence.

**ISSUE:**

At issue is whether the claimant refused an offer of suitable work.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Leslie Crawford had been employed by Kelly Services, Inc. on a number of temporary assignments. The claimant most recently was assigned to perform clerical work for Aegon USA from October 21, 2009, until December 31, 2009, when the temporary assignment ended.

On January 13, 2010, Ms. Voelker, a senior supervisor with Kelly Services, telephoned the claimant and offered her a temporary position working with Advantage Company. The position required the claimant to work nighttime hours, with the shift ending at 2:00 a.m. The pay was also approximately \$3.00 per hour less than the most recent assignment that Ms. Crawford had accepted with Kelly Services. Although Ms. Crawford had previously indicated that she did not want to work evening or night hours, she was urged to accept the position by Kelly Services. Ms. Crawford briefly considered the matter and then indicated her agreement to accept the position.

Upon considering the matter further, however, Ms. Crawford decided to decline the position because of the late hours required, the pay, as well as the distance to work in inclement wintertime weather conditions.

Approximately one day later, Ms. Crawford was informed by Kelly Services that the assignment with Advantage would not have been available to her because Kelly Services' most recent check of the claimant's background revealed past convictions that were not acceptable. Kelly Services also informed the claimant that she would not be eligible for any future assignments with the company unless she were able to expunge or otherwise remove at least one of her previous convictions. Based upon the nature of the claimant's previous convictions, Ms. Crawford did not believe that she could have any of the convictions expunged or otherwise removed.

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

The question before the administrative law judge is whether the claimant was given a bona fide offer of suitable work and, if so, whether good cause existed for refusing the offer.

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".

871 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

In the case at hand, the evidence in the record establishes that although Kelly Services offered Ms. Crawford a temporary assignment with Advantage Company, the employer was aware that the offer of work was contingent upon not only the claimant's acceptance of the offer but also the claimant's ability to pass a stringent background check. Kelly Services was aware that a bona fide offer of employment could not be made to Ms. Crawford until it was determined that its client, Advantage Company, was in fact willing to employ the claimant based upon the results of the background investigation and the claimant's other qualifications.

Based upon the facts of this case and the application of the law, the administrative law judge concludes the claimant therefore did not refuse a bona fide offer of work and is not subject to a benefit disqualification. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated February 8, 2010, reference 01, is reversed. The claimant did not refuse an offer of suitable work. Benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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