

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 04A-UI-02702-BT
OC 12-07-03 R 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

Teresa Servey (claimant) appealed an unemployment insurance decision dated March 3, 2004, reference 03, which held that she was not eligible for unemployment insurance benefits because she refused to accept suitable work with Scheldrup Law Firm (employer). Due notice was issued scheduling the matter for a telephone hearing to be held April 1, 2004. Because a decision favorable to the claimant and acceptable to the employer could be made based on a conference call and the information contained within the record, a hearing was deemed unnecessary.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered the evidence in the record, finds that: The appeal was based upon the claimant's refusal of a suitable job offer. The offer was deemed suitable because it was made in the claimant's sixth through twelfth week since she filed her most recent claim and reportedly equaled 75 percent of her average weekly wage paid during the highest quarter of her base period. The claimant's average weekly wage is \$862.28. She was offered work from the employer on January 22, 2004. The offer was for \$25.00 per hour for 20 hours per week for a total weekly wage of \$500.00.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant unreasonably rejected an offer of suitable work. An individual who refuses recall to suitable work is disqualified from receiving job insurance benefits.

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 offer of employment was made after the claimant's sixth week since she filed her most recent claim. Inasmuch as the claimant was offered employment with wages which did not equal 75 percent of her average weekly wage paid during the highest quarter of her base period, the administrative law judge does not consider the work offered by the employer to be suitable work within the meaning of the law. Since the claimant did not refuse a suitable offer of work, she is qualified for benefits, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated March 3, 2004, reference 03, is reversed. The claimant did not refuse a suitable offer of work and is qualified for benefits provided she is otherwise eligible.

sdb/d