

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RENATA D ROBERTSON
Claimant

STROKE DETECTION PLUS INC
Employer

APPEAL 21A-UI-16097-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/14/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available
Iowa Code § 96.5(3)a – Failure to Accept Work
871 IAC 24.24(15)i – Suitable Work

STATEMENT OF THE CASE:

On July 21, 2021, Renata D Robertson (claimant) appealed a representative's July 14, 2021, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she refused suitable work with Stroke Detection Plus Inc. (employer). A hearing was held September 10, 2021. Claimant was present for the hearing. Employer did not register a number to participate in the hearing prior to the hearing and therefore did not participate in the hearing. Administrative notice was taken of claimant's unemployment insurance benefits.

ISSUE:

The issue is whether the claimant refused suitable work and whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that:

On or about March 15, 2020, claimant was notified by her employer that she was temporarily laid off due to the COVID pandemic. In July 2020 claimant was notified that she was permanently laid off.

In December 2020 the claimant moved from Iowa to Georgia. Beginning in January 2021 claimant began online schooling to become a realtor. Claimant completed online courses and spent approximately 5 hours per day Monday through Friday completing the courses. Claimant completed her schooling March 15, 2021. Claimant obtained her realtor license and now earns commissions from the sale of real estate. Claimant began her realtor career at the end of March 2021.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for work.

Iowa Admin. Code r. 871-24.24(4) provides:

(4) Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3). Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

For the reasons that follow the administrative law judge concludes the claimant did not refuse an offer of suitable work.

Iowa Admin. Code r. 871-24.24(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.

There was no evidence presented that an offer of work was made to the claimant. Thus the claimant is qualified to receive benefits because no offer of suitable work was made to the claimant.

DECISION:

The representative's July 14, 2021, decision (reference 01) is REVERSED. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

September 15, 2021
Decision Dated and Mailed

cs/kmj