

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

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SW 5.00

SW GENERAL

SW 5.00 GENERAL.

INCLUDES CASES CONTAINING (1) INTERPRETATIONS OF "SUITABILITY", "WORK", "GOOD CAUSE", (2) DISCUSSIONS AS TO THE PURPOSE OF THE UNEMPLOYMENT COMPENSATION LAW, AND ITS EFFECT UPON SUITABILITY DETERMINATIONS, (3) GENERAL INTERPRETATIONS AS TO LEGISLATIVE INTENT AND THE MEANING OF STATUTES, AND (4) OTHER SUITABLE WORK POINTS WHICH DO NOT FALL WITHIN ANY SPECIFIC LINE IN THE SUITABLE WORK DIVISION.

Appeal No. 675-CA-72. It does not matter why a claimant refuses a job if the work was not suitable for the claimant.

Appeal No. 741-CA-66 (Modifying 33119-AT-66). The claimant was referred to a job on March 21, contacted the employer that date and was told to report the next morning. On the next morning, he tried out for the job and turned it down as he felt he could not do it, even though the employer was willing to train him. He was not paid for the few hours he was trying out for the job. **HELD:** The claimant did not have good cause for refusing the job. A disqualification under Section 207.047 was imposed beginning March 22, the first day of the benefit period in which the job refusal occurred. The Commission thereby modified the Appeal Tribunal decision which had imposed the disqualification effective March 15, the first day of the appropriate benefit period had the job refusal occurred on March 21, as originally found by the Appeal Tribunal.

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SW 90.00

SW CONSCIENTIOUS OBJECTION

SW 90.00 CONSCIENTIOUS OBJECTION.

INCLUDES CASES IN WHICH AN OFFER OF, OR REFERRAL TO, WORK IS REFUSED BECAUSE OF RELIGIOUS SCRUPLES OR ETHICAL CONCEPTS.

Sherbert vs. Verner and S.C., E.S.C. 374 U.S. 398 (Supreme Court 1963). The claimant, a Seventh Day Adventist, was disqualified for failing to accept a job which required that she work on Saturday. The Court held "...It is apparent that (claimant's) declared ineligibility for benefits derives solely from the practice of her religion, but the pressure upon her to forego that practice is unmistakable." The disqualification, therefore, operates to deny claimant's right under the First Amendment to the United States Constitution. (Cross-referenced under SW 450.10.)

Appeal No. 31272-AT-66 (Affirmed by 451-CA-66). Claimant refused referral to a job as a salesman, his usual occupation, because he did not like the products of the company. HELD: The claimant's contention that the merchandise was lacking in quality was without foundation and admittedly was based on his personal opinion only. Disqualification under Section 207.047.

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SW 150.00 - 150.20

SW DISTANCE TO WORK

SW 150.00 DISTANCE TO WORK.

150.05 DISTANCE TO WORK: GENERAL.

INCLUDES CASES CONTAINING (1) A GENERAL DISCUSSION OF DISTANCE TO WORK, (2) POINTS NOT COVERED BY ANY OTHER SUBLINE UNDER LINE 150, OR (3) POINTS COVERED BY ALL THE SUBLINES.

Appeal No. 24689-AT-65 (Affirmed by 893-CA-65). Claimant wanted a job within walking distance of her home. She refused referral to a job which could have been reached by city bus. The job location was not an excessive distance from her home and she did not have good cause to refuse the referral.

150.15 DISTANCE TO WORK: REMOVAL FROM LOCALITY.

WHERE CLAIMANT REFUSES A JOB BECAUSE OF (1) HIS REMOVAL FROM THE LOCALITY OF THE EMPLOYER'S PREMISES, (2) THE REQUIREMENT THAT HE MOVE TO THE LOCALITY OF THE JOB, OR (3) THE REMOVAL OF THE EMPLOYER'S PLACE OF BUSINESS TO ANOTHER LOCALITY.

Appeal No. 1436-CA-66. Claimant was offered suitable work in another locality and accepted it but changed his mind and did not report because his wife could not stay home alone and claimant could not dispose of his property in order to move. **HELD:** Since claimant had agreed to take the job and report on a specific date, he refused suitable work without good cause. Disqualification under Section 207.047. (Cross-referenced under SW 155.20, SW 265.20 and SW 265.30.)

150.20 DISTANCE TO WORK: TRANSPORTATION AND TRAVEL.

INVOLVES REFUSAL OF WORK BECAUSE OF CLAIMANT'S LACK OF TRANSPORTATION, EXPENSE OF TRAVEL, OR TIME OF TRAVEL.

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SW 150.20 (2)

SW DISTANCE TO WORK

Case No. 141500. The claimant declined a job offer in Odessa due to the distance to the job of approximately 20 miles. The claimant had performed similar work and had accepted similar pay previously. She declined the job solely because she wished to work in her city of residence, Midland, and did not wish to commute to Odessa. Many individuals living in Midland and Odessa commute between the cities for employment. HELD: Distance to an offered job is not the sole factor to be considered in determining if the job location is suitable. Distance, travel time, and community customs are all factors which determine if a job location is suitable. Disqualified under Section 207.047 of the Act as the distance was not excessive and such commutes were customary in the area.

Appeal No. 1139-CA-67 (SW 150.20) of the Appeals Policy & Precedent Manual was expressly overruled and removed from the Precedent Manual by Case No. 141500.

Appeal No. 526-CA-69. The claimant had good cause to refuse a job which required her to work until 9:00 p.m., since bus transportation to her home at night was very inconvenient. Having to rely on bus transportation at night presented a further problem in regard to claimant's mother caring for her children. HELD: No disqualification in order. However, claimant's occupation usually requires some night work and her restriction to day hours limited her availability to the point she did not have a reasonable expectancy of securing work. Accordingly, the claimant was held ineligible under Section 207.021(a)(4).

Appeal No. 316-AT-68 (Affirmed by 87-CA-68). Claimant refused referral to a job because of the distance. The job was located at the Brownsville shrimp basin, about eight miles from Brownsville where the claimant lived. Many people commute from Brownsville to that location and public bus transportation is also available. Claimant said she would have to get up too early in the morning to catch the bus. HELD: The job was suitable in all respects and she did not have good cause for refusing the referral.

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SW 150.20 (3)

SW DISTANCE TO WORK

Appeal No. 34049-AT-66 (Affirmed by 767-CA-66). Claimant refused a job because it was located in a remote area that was difficult to reach by city bus, which was her only means of transportation. She would have had to make two transfers, requiring about one and one-half hours to reach the job site. HELD: Claimant had good cause to refuse the job as it was not reasonably accessible.

Appeal No. 832-CA-65. The claimant failed to apply for a job in Houston because she did not have money available for transportation. She had filed eight continued claims and had managed to arrange transportation to file her claims. She had been representing that she was available to accept suitable work. HELD: Under the circumstances, the claimant's contention that she was not able to arrange transportation for an interview due to her lack of finances was not valid. Accordingly, her refusal of the referral was without good cause. Disqualification under Section 207.047 and ineligible under Section 207.021(a)(4) from the date of the work referral.

Appeal No. 31-CA-65. The claimant was referred to a job which would have required her to ride public transportation and to transfer in downtown Houston in order to reach work. Claimant failed to apply for the position because she wanted work only in the vicinity of her home (southeast Houston) or in the downtown area. The work was otherwise suitable. HELD: Claimant refused referral to suitable work without good cause. Claimant's objection to use of public bus transportation was not valid as thousands of workers in Houston rely on public buses daily to get to work. Disqualification under Section 207.047 and ineligible under Section 207.021(a)(4) (as unduly restricting her area of availability).

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SW 155.00 - 155.10

SW DOMESTIC CIRCUMSTANCES

SW 155.00 DOMESTIC CIRCUMSTANCES.

155.10 DOMESTIC CIRCUMSTANCES: CHILDREN, CARE OF.

WHERE REFUSALS OF WORK ARE MOTIVATED BY THE NEED OF THE CLAIMANT TO CARE FOR CHILDREN. CASES INVOLVING THE CARE OF CHILDREN DURING THEIR ILLNESS ARE PLACED UNDER "ILLNESS OR DEATH OF OTHERS".

Appeal No. 87-00822-10-011888. The claimant had worked for the employer on an irregular basis. The claimant called for work and was told to call back later. At 8:30 that evening the employer told the claimant there was four days work available if she could start at 7:00 the next morning. The claimant told the employer she could not start that soon because she needed to arrange child care.

HELD: Although child care is the responsibility of the claimant, the employer's requirement that the claimant start work on such short notice was an unreasonable one and one that the claimant was unable to meet. No disqualification under Section 207.047 of the Act. (Cross-referenced under SW 265.25.)

Appeal No. 27564-AT-65 (Affirmed by 1236-CA-65). Claimant refused a referral to suitable work because she had to have work in an area so located that she could pick up her children at the nursery at 5:30 p.m. HELD: The claimant's child care problems were personal and did not constitute good cause. Disqualification under Section 207.047.

See Appeal No. 28114-AT-65 (Affirmed by 69-CA-66) under SW 450.154.

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SW 155.20 - 155.35

SW DOMESTIC CIRCUMSTANCES

SW 155.20 DOMESTIC CIRCUMSTANCES: HOME OR SPOUSE IN ANOTHER LOCALITY.

WHERE A CLAIMANT REFUSES WORK BECAUSE OF HIS DESIRE TO ACCOMPANY OR TO JOIN HIS SPOUSE IN ANOTHER LOCALITY, OR BECAUSE OF HIS UNWILLINGNESS TO LEAVE HIS HOME OR SPOUSE TO ACCEPT EMPLOYMENT IN ANOTHER LOCALITY.

See Appeal No. 1436-CA-66 under SW 150.15.

155.35 DOMESTIC CIRCUMSTANCES: ILLNESS OR DEATH OF OTHERS.

INVOLVES QUESTIONS OF REFUSAL OF WORK BECAUSE OF ILLNESS OR DEATH OF OTHERS.

Appeal No. 71105-AT-60 (Affirmed by 7019-CA-60). Claimant accepted a job but did not report because her daughter had gone into labor and she wanted to be with her. HELD: Claimant's failure to report for work because of her daughter's condition constituted a refusal, without good cause, of suitable work. Disqualification under Section 207.047.

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SW 170.00 -170.10

SW EMPLOYMENT OFFICE OR OTHER AGENCY REFERRAL**SW 170.00 EMPLOYMENT OFFICE OR OTHER AGENCY REFERRAL.****170.10 EMPLOYMENT OFFICE OR OTHER AGENCY REFERRAL: DIRECTION TO APPLY FOR WORK.**

DISCUSSION OF QUESTIONS SUCH AS (1) THE ADEQUACY OR PROPRIETY OF A DIRECTION TO APPLY FOR, OR A REFERRAL TO, A JOB; OR (2) THE PURPOSE AND USE OF REFERRAL CARDS.

Appeal No. 1670-CA-73. Before a disqualification can be assessed under Section 207.047, it must be shown that claimant failed, without good cause, either to apply for available, suitable work when so directed by the Commission or to accept suitable work when offered. In this case, the claimant was told of an existing job opening but not of the job location or the name of the employer or wage information. When he was not directed to a particular address, claimant did not consider that he was offered a referral. HELD: An essential element of disqualification for failing to properly apply for work when directed by the Commission was missing. No disqualification under Section 207.047 as the evidence failed to establish that the claimant was actually given a referral and directed to suitable work.

Appeal No. 31-CA-68. It was held that the claimant had actually had notice of an offer of work sent him by telefax from the employer's office through Western Union. It was established that, if the message had been returned undelivered because of an improper address, as contended by the claimant, the sender would have been notified of such fact and would not have been billed for the message. The employer presented a copy of the telegram, showing that it was properly addressed. HELD: The work was suitable; disqualification under Section 207.047. (Cross-referenced under SW 330.15.)

Appeal No. 25802-AT-65 (Affirmed by 1039-CA-65). The claimant was told by the placement interviewer that a certain employer was hiring but the claimant did not wait until the interviewer had time to tell her to which store or to whom to report. Claimant failed, without good cause, to apply for available, suitable work.

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SW 170.10 (2)

SW EMPLOYMENT OFFICE OR OTHER AGENCY REFERRAL

Appeal No. 8629-CA-62. When the Commission representative attempted to refer the claimant to a suitable job and claimant refused to discuss the matter, she refused a referral to suitable work without good cause. When she stated she was not interested in the job, it was unnecessary to tell her where the job was located or give her a referral card. Such attempts to persuade the claimant to apply for the job would have served no useful purpose.

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SW 180.00

SW EQUIPMENT

SW 180.00 EQUIPMENT.

INCLUDES CASES WHERE CLAIMANT REFUSES WORK BECAUSE OF HIS INABILITY OR UNWILLINGNESS TO SECURE NECESSARY EQUIPMENT, SUCH AS TOOLS, SPECIAL CLOTHING, ETC.

Appeal No. 2012-AT-67 (Affirmed by 11-CA-68). The claimant was referred to a construction job. He accepted the referral and reported to the employer. The employer advised the claimant that he must have a safety helmet and safety shoes, and that the employer would not furnish them. The claimant was not hired because he did not have such items and could not buy them anywhere in the area. HELD: The claimant did not fail, without good cause to apply for or accept suitable work; no disqualification under Section 207.047.

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SW 190.15

SW EMPLOYMENT OFFICE OR OTHER AGENCY REFERRAL**190.15 EVIDENCE: WEIGHT AND SUFFICIENCY.**

DISCUSSION OF WEIGHT AND SUFFICIENCY OF EVIDENCE RELATING TO APPLICATION OF THE SUITABLE WORK PROVISION.

Appeal No. 2791-CA-76. At the Appeal Tribunal hearing on the claimant's separation, the employer testified that, after the claimant filed her initial claim, he offered her reemployment in her former position but under a different remuneration agreement, which the claimant refused. However, the employer could not recall the exact date of the work offer. The claimant did not appear at the hearing and the Appeal Tribunal held that, since the employer could not recall the exact date of the work offer and since the work offered was under a different remuneration agreement, no disqualification under Section 207.047 was in order. HELD: The employer submitted sufficient facts at the Appeal Tribunal hearing to raise an issue as to whether the claimant had been offered suitable work which she refused. However, since the claimant was not present at the hearing to testify as to her reason for refusing this work offer, the Commission held that there was insufficient evidence available to the Appeal Tribunal to support a ruling under Section 207.047. Accordingly, the Appeal Tribunal's decision, insofar as it held that no disqualification under Section 207.047 would be applied, was set aside and the Insurance Department was directed to investigate the work offer and issue a Section 207.047 determination.

Appeal No. 1522-AT-69 (Affirmed by 200-CA-69). A claimant who indicates she would not have refused a referral to a prospective job had she known that she would be disqualified therefor did not have good cause for refusing referral to suitable work.

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SW 195.00 - 195.10

SW EXPERIENCE OR TRAINING

SW 195.00 EXPERIENCE OR TRAINING.

195.05 EXPERIENCE OR TRAINING: GENERAL.

INCLUDES CASES CONTAINING (1) A GENERAL DISCUSSION OF EXPERIENCE AND TRAINING, (2) POINTS NOT COVERED BY ANY OTHER SUBLINE UNDER LINE 195, OR (3) POINTS COVERED BY THREE OR MORE SUBLINES.

Appeal No. 8687-CA-62. No disqualification under Section 207.047 is in order where a claimant refused a referral to work chopping cotton because the work was not suitable, in that all of her work experience had been as a maid.

195.10 EXPERIENCE OR TRAINING: INSUFFICIENT.

WHERE A JOB IS REFUSED ON GROUNDS OF LACK OF TRAINING OR EXPERIENCE.

Appeal No. 713-CUCX-EB-77. The claimant, a former Air Force propeller mechanic for twenty-one years, refused a job offer as an industrial engine mechanic because he felt unqualified for the work and felt that his lack of experience in the work would render it unsafe. The employer required only that applicants be interested in mechanics; those hired would receive on-the-job training. **HELD:** Since the employer required only an interest in mechanics to qualify for the job, the claimant did not have good cause to refuse the job offer.

Appeal No. 399-CA-77. The claimant, a licensed vocational nurse (L.V.N.) whose work experience had been with physicians in private practice, refused a referral to an available L.V.N. position with a convalescent home. The job involved the administration of medicines, which the claimant had no experience in. The claimant would have required a three-month hospital training course in order to qualify and the job offered was not for a trainee. Had the claimant performed such duties for which she was not qualified,

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SW 195.10 (2)

SW EXPERIENCE OR TRAINING

Appeal No. 399-CA-77

(Cont'd)

she could have had her license revoked and incurred civil liabilities. HELD: Since the claimant was not qualified for the position and would have subjected herself to possibly serious consequences had she performed duties for which she was not qualified, she had good cause to refuse the referral.

Appeal No. 1183-CA-67. A claimant who refused a job because of lack of experience in repairing electric watches did not have good cause for the refusal as he had many years' experience as a watchmaker and the employer was willing to train him in the repair of electric watches.

Appeal No. 1117-UCX-66 (Affirmed by 53-CUCX-66). The claimant refused a referral to a job as a shipping and receiving clerk because he felt he was unqualified for the job. However, the claimant had had prior experience on a loading dock, had had two years of college and could type. HELD: The claimant's educational background and work experience were such that his chances of securing the job were good and the work was suitable. Disqualification under Section 207.047.

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SW 195.20

SW EVIDENCE

195.20 EXPERIENCE OR TRAINING: USE OF HIGHEST SKILL.

WHERE THE QUESTION OF MAXIMUM UTILIZATION OF CLAIMANT'S SKILLS DETERMINES WHETHER THERE IS JUSTIFICATION FOR HIS REFUSAL OF A PARTICULAR JOB.

Appeal No. 96-007549-10-062797. When she returned from an approved medical leave of absence, the claimant was advised her former position as a dental assistant was no longer available. The claimant then filed an initial claim for benefits. About a month later, the employer offered the claimant a new job as an office assistant with the same hours, pay and work location. The claimant refused this offer because she felt the duties of an office assistant were different from those of a dental assistant. HELD: Disqualified for refusing an offer of suitable work. Although the new job duties were different, the pay, hours and work location were identical, and the two positions were of comparable skill level.

Appeal No. 179-CA-69. A claimant has good cause to refuse a referral to work that would not utilize her experience and training, which qualified her for a better paying and more responsible job.

Appeal No. 214-CA-68. A claimant who has undergone specialized training under the Manpower Redevelopment and Training Act has good cause for refusing a referral to a job which required no special training or skills and paid only the minimum wage and which was, therefore, not suitable work.

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SW 235.00 - 235.25

SW HEALTH OR PHYSICAL CONDITION

SW 235.00 HEALTH OR PHYSICAL CONDITION.

235.20 HEALTH OR PHYSICAL CONDITION: HEARING, SPEECH, OR VISION.

Appeal No. 33479-AT-66 (Affirmed by 721-CA-66). The claimant refused referral to a job as a sewing-machine operator because she felt it would be too much of a strain on her eyes. She presented a doctor's statement to the effect that he had examined her eyes and found her vision to be so deficient that she was unable to do sewing-machine work. The claimant was held to have had good cause to refuse the referral.

235.25 HEALTH OR PHYSICAL CONDITION: ILLNESS OR INJURY.

Appeal No. 339-AT-68 (Affirmed by 92-CA-68). A claimant who was ill at the time of the referral and so advised the employer by telephone had good cause not to apply for work and no disqualification under Section 207.047 was in order. The claimant's statement was supported by medical evidence. (Note that the decision in this case did not address itself to the possible application of Section 207.021(a)(3) of the Act.)

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SW 235.40 - 235.45

SW HEALTH OR PHYSICAL CONDITION

235.40 HEALTH OR PHYSICAL CONDITION: PREGNANCY.

Appeal No. 31535-AT-66 (Affirmed by 440-CA-66). A claimant who refuses a referral for the sole reason that she is pregnant and, therefore, does not think the employer would be interested in hiring her, does not have good cause for refusing the referral. Disqualification under Section 207.047.

235.45 HEALTH OR PHYSICAL CONDITION: RISK OF ILLNESS OR INJURY.

Appeal No. 86-14411-10-110686. The claimant had experienced back problems after working for the employer in positions requiring heavy lifting. After being transferred to lighter duty work, the claimant was laid off for lack of work. Two months after filing her initial claim, the claimant refused the employer's offer of work as a stock clerk because it required heavy lifting. On appeal to the Commission, the claimant submitted medical documentation of her back problem, including her physician's advice against any work involving strenuous lifting. HELD: The offered work was not suitable because it would have posed a health risk to the claimant. No disqualification under Section 207.047 of the Act.

See Appeal No. 1716-AT-70 (Affirmed by 189-CA-70) under SW 450.154.

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SW 265.00 - 265.15

SW INTERVIEW AND ACCEPTANCE

SW 265.00 INTERVIEW AND ACCEPTANCE.**265.05 INTERVIEW AND ACCEPTANCE: GENERAL.**

INVOLVES (1) POINTS NOT COVERED BY ANY OTHER SUB-LINE UNDER LINE 265, OR (2) POINTS COVERED BY THREE OR MORE SUBLINES.

Appeal No. 30802-AT-66 (Affirmed by 475-CA-66). The claimant was given a referral to suitable work and, on that same day, made several telephone calls to the employer, as instructed. However, she was unable to reach the individual whom she was to contact because either the employer's line was busy or the individual to be contacted was occupied on interviewing job applicants. The claimant left no message for him to return her calls. HELD: It was reasonable to believe that the claimant could have contacted the employer had she made a diligent effort to do so. By her failure to make such a diligent effort, she failed, without good cause, to apply for available, suitable work. Disqualification under Section 207.047.

265.15 INTERVIEW AND ACCEPTANCE: AVAILABILITY.

WHERE THE ISSUE TURNS UPON THE IMMEDIATE EXISTENCE OF WORK FOR THE CLAIMANT OR ON THE CLAIMANT'S AVAILABILITY FOR WORK.

Appeal No. 105-CA-78. The claimant had last worked as a nurse's aide for a hospital. However, when she filed her initial claim, she indicated that she would not accept nursing home work. Subsequently, she was referred to a job as a nurse's aide at a nursing home but declined to apply therefor. HELD: Since the claimant had already informed the Commission office that she would not accept nursing home work, the referral should not have been made. Accordingly, no disqualification under Section 207.047 was in order. However, the claimant was held ineligible under Section 207.021(a)(4) as, by her geographical restrictions and her prohibition against nursing home work, she had removed herself from any substantial labor market and, further, had made virtually no search for work.

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SW 265.15 - 265.20

SW INTERVIEW AND ACCEPTANCE

Appeal No. 827-CA-71. It is not equitable to refer a claimant to a job paying less than the wage she had stated she would accept and then disqualify her, when she had not been informed that her wage demand was excessive at the time she set it. In such an instance, no disqualification would be in order under Section 207.047 of the Act. If the claimant's wage demand is excessive, Section 207.021(a)(4) of the Act is applicable.

Appeal No. 7569-AT-68 (Affirmed by 875-CA-68). A claimant will not be disqualified a second time for refusing a referral to work in a particular location where she has previously advised the Commission that she will not work. However, the claimant's Section 207.021(a)(4) ineligibility, based on her geographical restrictions, was continued.

265.20 INTERVIEW AND ACCEPTANCE: DISCHARGE OR LEAVING AFTER TRIAL.

DISCUSSION OF WHETHER THE EARLY TERMINATION OF NEWLY-ACCEPTED WORK CONSTITUTES A REFUSAL OF WORK OR A LEAVING OR A DISCHARGE.

See Appeal No. 1436-CA-66 under SW 150.15.

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SW 265.25 - 265.30

SW INTERVIEW AND ACCEPTANCE**SW 265.25 INTERVIEW AND ACCEPTANCE: FAILURE TO ACCEPT OR SECURE JOB OFFERED.**

DISCUSSION OF THE AFFECT OF CIRCUMSTANCES OCCURRING DURING OR AFTER THE INTERVIEW WHICH RESULT IN THE CLAIMANT'S NOT BECOMING EMPLOYED.

Appeal No. 25-CA-66. A claimant with twenty years' experience as a welder was referred to a prospective job as a welder. The offered wage was lower than that which the claimant had indicated he would accept. The claimant represented to the employer that he doubted he could perform the work and that he had no experience in this type of work. He testified that he would have accepted the job if it had paid the wage he desired. HELD: The claimant refused available, suitable work without good cause. His contention that no offer had been made was not valid as he had led the employer to believe that he would not accept the position.

Appeal No. 15-CA-64. The claimant took affirmative action to insure that she would not be accepted for the job by dressing improperly for the job interview, chewing gum, and understating her ability to perform the work. HELD: Since the work was suitable, the claimant was disqualified under Section 207.047. (Also digested under AA 160.15.)

See Appeal No. 87-00822-10-011888 under SW 155.10.

265.30 INTERVIEW AND ACCEPTANCE: FAILURE TO REPORT FOR INTERVIEW OR WORK.

CIRCUMSTANCES WHICH PREVENT CLAIMANTS FROM EITHER REPORTING, OR REPORTING ON TIME, FOR INTERVIEWS WITH THE PROSPECTIVE EMPLOYERS AFTER THE ACCEPTANCE OF REFERRALS, OR FROM REPORTING FOR WORK AFTER THEY HAVE BEEN HIRED.

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SW 265.30 -265.35

SW INTERVIEW AND ACCEPTANCE

Appeal No. 3290-CA-75. The claimant was referred to a prospective employer. She contacted the employer and made an interview appointment, forgetting that she had previously committed herself to several other interviews on the same morning. The claimant attempted to call the employer and postpone the interview until later the same day. The employer advised the claimant that, if she could not keep her appointment, she would not be considered. HELD: The claimant had good cause for not actually applying for work with this employer. She made a reasonable effort to apply for the job in light of the circumstances.

Appeal No. 6150-AT-68 (Affirmed by 718-CA-68). A claimant who failed to report for a scheduled job interview because he was helping his neighbors search for a rabid dog, and was informed next day that the job had been filled, failed without good cause to apply for work which was suitable.

Appeal No. 24750-AT-65 (Affirmed by 921-CA-65). Claimant accepted a referral to work which was admittedly suitable but did not report to the employer because she had been registering for work and filing her claim at the Commission office that day and was too nervous to keep the appointment. HELD: The claimant did not have good cause for failing to apply for the job; disqualification under Section 207.047.

See Appeal No. 1436-CA-66 under SW 150.15.

SW 265.35 INTERVIEW AND ACCEPTANCE: INABILITY TO PERFORM OFFERED WORK.

WHERE CLAIMANT'S INABILITY TO PERFORM THE WORK OFFERED IS CONSIDERED IN DETERMINING THE SUITABILITY OF THE WORK OR THE CLAIMANT'S "GOOD CAUSE" FOR REFUSAL.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 265.35 -265.45

SW INTERVIEW AND ACCEPTANCE

Appeal No. 880-CA-66. Claimant refused a job when advised that it required heavy typing because she could type only forty-five words per minute with very poor accuracy. For the past four years she had done light bookkeeping and general office work. HELD: Since the claimant clearly was not qualified for the job, she had good cause for her refusal. No disqualification under Section 207.047.

265.40 INTERVIEW AND ACCEPTANCE: NECESSITY FOR INTERVIEW.

DISCUSSION OF THE NECESSITY OF A PERSONAL INTERVIEW FOR THE PURPOSE OF CLARIFYING THE TERMS OF THE OFFER AND THE CIRCUMSTANCES UNDER WHICH THE EMPLOYMENT WILL BE PERFORMED.

Appeal No. 9-CUCX-F-66 (Affirmed by 1-CUCX-F-66). Claimant took a work application from the prospective employer's secretary to fill out and return. However, he did not pursue the job as one of the employees told him the job began at midnight and he would have no transportation. HELD: The claimant did not properly apply for the job and merely accepted information given him by one of the employees. Disqualification under Section 207.047.

265.45 INTERVIEW AND ACCEPTANCE: REFUSAL OR INABILITY TO MEET EMPLOYER'S REQUIREMENTS.

WHERE CLAIMANT'S REASON FOR REFUSAL OR INABILITY TO MEET EMPLOYER'S STANDARDS IS CONSIDERED IN DETERMINING THE SUITABILITY OF THE WORK OR CLAIMANT'S "GOOD CAUSE" FOR REFUSAL.

Appeal No. 87-00822-10-011888. The claimant had worked previously for the employer on an irregular basis. The claimant called for work and was told to call back later. At 8:30 that evening the employer told the claimant there was four days work available if

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 265.45 (2)

SW INTERVIEW AND ACCEPTANCE

Appeal No. 87-00822-10-011888 (Cont'd)

she could start at 7:00 the next morning. The claimant told the employer she could not start that soon because she needed to arrange child care. HELD: The claimant, in fact, accepted the offer of work but was not able to start immediately because she needed to find adequate child care arrangements. Although child care is the responsibility of the claimant, the employer's requirement that the claimant start work on such short notice was an unreasonable one. No disqualification under Section 207.047.

Appeal No. 27494-AT-65 (Affirmed by 52-CA-66). Claimant refused to apply for a job for the sole reason she would be required to take a polygraph test. The requirement that claimant submit to a polygraph test was not unreasonable and did not give claimant good cause for refusing the referral. Disqualification under Section 207.047.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 295.00

SW LENGTH OF UNEMPLOYMENT

SW 295.00 LENGTH OF UNEMPLOYMENT.

INCLUDES CASES WHERE THE LENGTH OF UNEMPLOYMENT IS CONSIDERED IN DETERMINING WHETHER THERE IS JUSTIFICATION FOR A REFUSAL.

Appeal No. 1044-CA-65. A claimant who last earned \$500 a month and had been unemployed about a year did not have good cause to refuse a referral to a job paying \$325 per month, which approximated the prevailing rate in the area. (Cross-referenced under SW 500.35.)

Also see Appeal No. 2282-CA-77 and Appeal No. 86-05689-10-041087, both under AA 500.00.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 315.00

SW NEW WORK

SW 315.00 NEW WORK.

THIS LINE IS USED ONLY WITH REFERENCE TO DETERMINATIONS AS TO WHETHER A JOB OFFER IS "NEW WORK" WITHIN THE MEANING OF SECTION 1603(a)(5) OF THE INTERNAL REVENUE CODE (EFFECTIVE AUGUST 5, 1954, SECTION 3304(a)(5) OF THE FEDERAL UNEMPLOYMENT TAX ACT) OR OF STATE LABOR STANDARDS PROVISIONS PATTERNED AFTER IT. INCLUDES CASES INVOLVING INTERPRETATIONS AS TO WHAT CONSTITUTES "NEW WORK"; NEW CONTRACT OF HIRE; WORK OFFERED BY OLD EMPLOYER OF A DIFFERENT TYPE THAN FORMERLY DONE; OR TRANSFER TO A DIFFERENT PLANT OR TO A DIFFERENT DEPARTMENT IN SAME PLANT.

See Unemployment Insurance Program Letter No. 9-84 under VL 315.00.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 330.00 - 330.20

SW OFFER OF WORK

SW 330.00 OFFER OF WORK.

330.05 OFFER OF WORK: GENERAL.

INCLUDES CASES WHICH (1) DEFINE AN "OFFER", (2) DETERMINE WHETHER THERE HAS IN FACT BEEN AN OFFER, (3) DISCUSS POINTS COVERED UNDER THREE OR MORE SUBLINES UNDER LINE 330, OR (4) CONSIDER POINTS NOT COVERED UNDER ANY OTHER SUBLINE.

Appeal No. 1213-AT-67 (Affirmed by 289-CA-67). A claimant is not subject to a disqualification under Section 207.047 of the Act when no job opening actually exists at the time of the offer and there is no definite date on which such job may become available. Section 207.047 contemplates an offer of present work and not work which may be available at some indefinite date in the future.

330.15 OFFER OF WORK: MEANS OF COMMUNICATION.

QUESTIONS AS TO (1) THE SOURCE AND METHOD OF COMMUNICATION OF THE WORK OFFER, AND (2) THE ADEQUACY OF THE MEANS OF NOTIFICATION.

See Appeal No. 31-CA-68 under SW 170.10.

330.20 OFFER OF WORK: NECESSITY.

DISCUSSION OF THE NECESSITY OF AN OFFER OF WORK AS A PREREQUISITE TO DISQUALIFICATION FOR A JOB REFUSAL.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 330.20 - 330.30

SW OFFER OF WORK

Appeal No. 33002-AT-66 (Affirmed by 649-CA-66). No disqualification is in order where both the claimant and her witness testified that they were told by the employer that the job had been filled.

330.30 OFFER OF WORK: TIME.

DISCUSSION OF THE TIME OF THE OFFER AS RELATED TO (1) THE DATE OF THE CLAIM, OR (2) THE DATE THE CLAIMANT BECAME UNEMPLOYED.

Appeal No. 897-CA-76. The claimant was laid off for lack of work. Two months later, but prior to the date of the claimant's initial claim, he was offered recall to his job by his supervisor, which offer he declined. HELD: No disqualification under Section 207.047. The latter provides for disqualification only if a claimant refuses an offer of suitable work "during his current benefit year".

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 335.00

SW OFFERED WORK PREVIOUSLY REFUSED

SW 335.00 OFFERED WORK PREVIOUSLY REFUSED.

INCLUDES CASES WHICH CONSIDER THE EFFECT OF OFFERS OF WORK PREVIOUSLY REFUSED, OR REPEATED REFUSALS OF A PARTICULAR JOB. THE OFFERS MAY BE EITHER THOSE MADE BY EMPLOYERS OR THE EMPLOYMENT OFFICE.

Appeal No. 88764-AT-62 (Affirmed by 8778-CA-62). The claimant was disqualified for refusing her former job with her last employer on July 6. She was again offered the same job by that employer on July 13. She refused on both occasions because she needed more money. Since the claimant had already been disqualified for refusing work with that employer on July 6, no further disqualification was applicable because of the work refusal of July 13.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 360.00

SW PERSONAL AFFAIRS

SW 360.00 PERSONAL AFFAIRS.

INCLUDES CASES IN WHICH THE REFUSAL IS BASED ON SOME PERSONAL CIRCUMSTANCES NOT COVERED BY ANY OTHER LINE IN THE SUITABLE WORK DIVISION OF THE CODE.

Appeal No. 15990-AT-64 (Affirmed by 713-CA-64). A claimant has good cause to refuse a referral to a job with a company against which her husband's employer had a lawsuit pending. Her acceptance of work with the particular employer would have caused embarrassment to her husband. (Cross-referenced under SW 515.80.)

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 365.00

SW PROSPECT OF OTHER WORK

SW 365.00 PROSPECT OF OTHER WORK.

INCLUDES CASES WHERE THE CLAIMANT'S LIKELIHOOD OF OBTAINING EMPLOYMENT IN HIS CUSTOMARY OCCUPATION, OR IN SOME OTHER TYPE OF WORK, IS CONSIDERED IN DETERMINING WHETHER OR NOT THERE IS JUSTIFICATION FOR A REFUSAL.

Appeal No. 1100-CA-67. A claimant who refuses a work referral because he is involved in serious negotiations with another company, and has a good possibility of obtaining a much better job than the one to which he was offered referral, has good cause to refuse the referral.

Appeal No. 89938-AT-62 (Affirmed by 8819-CA-62). A claimant who refuses a referral because she is working part-time and has been promised full-time work with that employer in six weeks, which work is nearer her home and pays better, has good cause to refuse the referral but is ineligible under Section 207.021(a)(4).

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 450.00 - 450.154

SW TIME

SW 450.00 TIME.

450.10 TIME: DAYS OF WEEK.

WHERE CLAIMANT REFUSES WORK BECAUSE OF HIS INSISTENCE UPON, OR OBJECTION TO, WORKING PARTICULAR DAYS OF THE WEEK.

Appeal No. 24750-AT-65 (Affirmed by 921-CA-65). A claimant who refuses a job solely because it requires Saturday work is subject to a disqualification under Section 207.047 when the majority of jobs in her line of work require working on Saturdays. (The claimant's ineligibility, based on her unavailability for Saturday work, was closed because, at the Appeal Tribunal hearing, she indicated that she would thereafter be available for Saturday work.)

Also see *Sherbert vs. Verner and S.C.*, E.S.C. 374 U.S. 398 (Supreme Ct. 1963) digested at SW 90.00.

450.15 TIME: HOURS:

450.154 TIME: HOURS: NIGHT.

CLAIMANT'S REFUSAL OF WORK BECAUSE OF HIS OBJECTION TO WORKING AT NIGHT.

Appeal No. 1716-AT-70 (Affirmed by 189-CA-70). A claimant has good cause to refuse a job requiring night work when medical evidence shows night work is injurious to her health. No disqualification under Section 207.047. However, if night work is usually required in her occupation, she is ineligible under Section 207.021(a)(4). (Cross-referenced under SW 435.45.)

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 450.154 - 450.155

SW TIME

Appeal No. 28114-AT-65 (Affirmed by 69-CA-66).

The claimant refused a job referral because the job required working a night shift and the claimant preferred daytime work, lasting no later than 8:00 p.m., because she had four children. In the claimant's line of work, most employers operate two shifts, one day and one night. She was held not to have had good cause for refusing the referral. HELD: Disqualification under Section 207.047 and ineligible under Section 207.021(a)(4). (Cross-referenced under SW 155.10.)

450.155

TIME: HOURS: PREVAILING STANDARD, COMPARISON WITH.

CONSIDERATION AS TO WHETHER THE WORKING HOURS OF THE OFFERED JOB ARE SUBSTANTIALLY BELOW THOSE MOST COMMONLY TO BE FOUND FOR SIMILAR WORK IN THE COMMUNITY. THIS LINE IS ALSO USED IN DETERMINATIONS AS TO WHETHER THE HOURS OF THE JOB OFFERED WERE THOSE PREVAILING WITHIN THE MEANING OF SECTION 1603(A)(5) OF THE INTERNAL REVENUE CODE OR OF THE STATE LABOR STANDARDS PROVISIONS ENACTED IN CONFORMITY WITH THE FEDERAL STATUTE.

Appeal No. 3146-CA-76. The claimant was offered a position which would have required him to work from 2:00 p.m. to 10:00 p.m. and some Saturdays. Claimant refused the job, indicating that he was available from 8:00 a.m. to 5:00 p.m. only. Expert testimony indicated that the great majority of work in this occupation is performed between 8:00 a.m. and 5:00 p.m. with occasional Saturday work. HELD: No disqualification under Section 207.047, as the work was not suitable. The conditions of the offered job were substantially less favorable than those prevailing for similar work in the locality.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 450.155 (2)

SW TIME

Appeal No. 7741-CA-61. The claimant refused a job in her regular occupation because it required Saturday work and she had no arrangements for child care on Saturdays. A Commission representative testified that fifty percent of the jobs in the area for which claimant qualified required Saturday work. HELD: The work was suitable and claimant did not have good cause to refuse it. A disqualification was assessed under Section 207.047 and ineligibility under Section 207.021(a)(4) was imposed from the date the claimant was informed of the area's requirements of Saturday work.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 450.40

SW TIME

SW 450.40 TIME: PART TIME OR FULL TIME.

REFUSAL OF WORK BY THE CLAIMANT BECAUSE OF HIS INSISTENCE UPON, OR OBJECTION TO, WORKING PART TIME OR FULL TIME.

Appeal No. 26087-AT-77 (Affirmed by 2874-CA-77). The claimant last worked full-time for an employer as a truck driver. He was discharged with no showing of misconduct connected with the work. After his initial claim, he was offered reemployment by that employer on a part-time basis, which offer he refused. **HELD:** Since the claimant had been discharged by the employer at its convenience and had subsequently been offered only part-time work, the claimant had good cause to refuse the offer. No disqualification under Section 207.047. (Also digested under SW 510.20.)

Appeal No. 1179-CA-66. Claimant refused a job because it was part-time as well as irregular work. At most, she could have worked about twelve hours a week and the employer would not state that even this much work would be available. The small number of hours would have been spread out over at least four days a week, making it necessary for claimant to have child care and transportation. The work was not suitable under these circumstances and claimant had good cause to refuse it.

Appeal No. 28114-AT-65 (Affirmed by 69-CA-66). Claimant refused a job because she would be allowed to work only thirty-seven and a half hours a week. **HELD:** The work was suitable and she did not have good cause to refuse it as she could have looked for full-time work while engaged in part-time work. Disqualification under Section 207.047.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 450.50 - 450.55

SW TIME

450.50 TIME: SHIFT.

RELATES TO WORK REFUSAL WHERE THE CLAIMANT INSISTS UPON, OR OBJECTS TO, WORKING ANY PARTICULAR SHIFT.

Appeal No. 32531-AT-66 (Affirmed by 787-CA-66). A claimant does not have good cause to refuse a referral to work beginning at 8:00 a.m., which is normal in her occupation, because she has to get her children off to school and cannot begin work prior to 8:30 a.m. Disqualified under Section 207.047 and ineligible under Section 207.021(a)(4) from date of referral.

Appeal No. 32573-AT-66 (Affirmed by 577-CA-66). A claimant has good cause to refuse a job on a shift that would require her to leave home about 5:30 a.m. because she could not arrange for child care earlier than 7:30 a.m.

450.55 TIME: TEMPORARY.

DISCUSSION OF A CLAIMANT'S INSISTENCE UPON, OR REFUSAL OF, TEMPORARY WORK.

Appeal No. 736-CA-65. The fact that work is temporary does not render it unsuitable. Refusal of work because it will last for only three weeks, and claimant wants permanent full-time work, warrants a disqualification under Section 207.047. However, if a claimant is available for most of the jobs in his line of work and the restriction as to the type of work he will not accept applies to only a small segment of the labor market, he will be considered available for work and eligible under Section 207.021(a)(4).

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 475.00 - 480.00

SW UNION RELATIONS

SW 475.00 UNION RELATIONS.

475.65 UNION RELATIONS: REMUNERATION.

DISCUSSES REFUSAL OF WORK BECAUSE OF WAGES, WHEN THE QUESTION OF WAGES IS TREATED WITH REFERENCE TO THOSE ESTABLISHED UNDER UNION CONTRACT OR AGREEMENT. THIS LINE SERVES TO DISTINGUISH THE PROBLEM AS A STRICTLY UNION ONE FROM THE GENERAL CONSIDERATION OF WAGES AS A PERSONAL FACTOR IN THE CASES CLASSIFIED TO LINE 500.

Appeal No. 1175-CA-65. A claimant who is a union carpenter has good cause for refusing a nonunion job as a carpenter when the job pays below the union scale and claimant would have been subject to disciplinary action by his union had he accepted it.

480.00 VACANT DUE TO A LABOR DISPUTE.

INCLUDES CASES IN WHICH A WORKER REFUSES A REFERRAL TO, OR OFFER OF, A POSITION AT AN ESTABLISHMENT WHERE A LABOR DISPUTE EXISTS, AND IT IS DETERMINED WHETHER OR NOT THE JOB REFUSED WAS VACANT DUE TO A LABOR DISPUTE WITHIN THE MEANING OF SECTION 1603(A)(5) OF THE INTERNAL REVENUE CODE OR OF STATE LABOR STANDARDS PROVISIONS ENACTED IN CONFORMITY WITH THE FEDERAL PROVISIONS.

Appeal No. 4061-AT-72 (Affirmed by 979-CA-72). Under Section 207.008)(b)(1), no work shall be deemed suitable and benefits shall not be denied for refusing to accept new work if the position offered is vacant due directly to a strike, lockout, or other labor dispute.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 500.00 - 500.20

SW WAGES

SW 500.00 WAGES.

500.05 WAGES: GENERAL.

INCLUDES CASES CONTAINING (1) A GENERAL DISCUSSION OF REMUNERATION, (2) POINTS NOT COVERED BY ANY OTHER SUBLINE UNDER LINE 500, OR (3) POINTS COVERED BY THREE OR MORE SUBLINES.

Appeal No. 38831-AT-66 (Affirmed by 1429-CA-66). The fact that the employer only pays employees every two weeks does not give a claimant good cause for failing to apply for suitable work. Disqualification under Section 207.047. (Cross-referenced under SW 500.65.)

500.20 WAGES: BENEFIT AMOUNT, COMPARISON WITH.

WHERE THE WORKER'S JUSTIFICATION FOR REFUSAL IS TESTED BY COMPARISON OF THE WAGE OFFERED WITH THE WEEKLY BENEFIT AMOUNT TO WHICH THE WORKER WOULD BE ENTITLED.

Appeal No. 864-AT-69 (Affirmed by 136-CA-69). A claimant does not have good cause to refuse a referral for the reason that the job would not pay as much as he was receiving by way of unemployment insurance plus supplemental unemployment benefits from his former employer, even though the job paid much less than he earned in his prior employment.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 500.25 - 500.35

SW WAGES**SW 500.25 WAGES: EXPENSES INCIDENT TO JOB.**

DISCUSSES REFUSAL OF A REFERRAL OR A JOB BECAUSE OF THE EXTRA EXPENSE WHICH WOULD BE INCIDENT TO THE JOB.

Appeal No. 87-07983-10-050787. A few days before receiving a referral to the employer from his local office, the claimant had learned from a conversation with the employer that acceptance of the sales position with the employer would require responsibility for all travel and accommodation expenses incident to the job. The claimant was without an income and could not afford to pay travel expenses. He, therefore, chose not to follow up on the referral. HELD: The claimant had good cause to decline the job referral because he had been informed by the employer before receiving the referral that the job would entail substantial initial expenses that the claimant could not afford. No disqualification under Section 207.047 of the Act.

500.35 WAGES: FORMER RATE, COMPARISON WITH.

WHERE THE WORKER'S JUSTIFICATION FOR REFUSAL IS TESTED BY A COMPARISON OF THE OFFERED WAGE WITH THAT WHICH HE HAD FORMERLY EARNED.

Appeal No. 87-04333-10-032488. For two weeks prior to his layoff due to a reduction in force, the claimant had been working as a sheet metal foreman, earning \$8.82 per hour. Approximately ten weeks after the effective date of his initial claim, the claimant was recalled by the employer and offered work as a sheet metal mechanic, to be paid a wage of \$7.00 per hour. The hours and benefits would have been exactly the same as on the claimant's previous job. The claimant declined the offer. The average wage for sheet metal mechanics in the claimant's work search area was \$5.83 per hour. HELD: Citing the holding in Appeal No. 3889-AT-69 (Affirmed by 414-CA-69)(digested in this same subsection), the Commission held that the wages and other conditions of work offered to the claimant had not been substantially less favorable to

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 500.35 (2)

SW WAGES

Appeal No. 87-04333-10-032488 (Cont'd)

the claimant than those offered for similar work in the locality. Citing the holding in Appeal No. 2282-CA-77 (digested under AA 500.00), the Commission noted that the claimant had been unemployed at least eight weeks following the date of his initial claim and that the work offered to him had paid substantially more than 75% of his former wage. Accordingly, it held that the claimant did not have good cause to refuse the work offered to him. The fact that the work had not been as a supervisor or foreman also did not provide the claimant with good cause because he had not been a supervisor or foreman for a significant length of time. Disqualification under Section 207.047. (Note: The Commission in this case reiterated the holding in Appeal No. 86-5869-10-041087, digested in this same subsection, that the rule in Appeal No. 2282-CA-77 would be applied from the date the claimant filed the initial claim rather than the separation date.)

Appeal No. 86-05869-10-041087. The claimant was separated from his \$8.00 per hour job on February 1, 1986. With no intervening work the claimant filed an initial claim on August 14, 1986, indicating \$7.00 per hour as his minimum acceptable wage. On September 22, 1986 the claimant refused a job offering \$5.00 per hour simply because of the hourly rate. The claimant eventually secured a job at \$7.20 per hour. **HELD:** The claimant had good cause to reject the \$5.00 per hour job offer because of the low pay. The length of the claimant's unemployment as a factor in determining the reasonableness of his wage demand is measured not from the date of separation from work, but from the date he filed his initial claim for benefits. (Clarifying the decision in Appeal No. 2282-CA-77, digested at AA 500.00.) (Cross-referenced under SW 500.50.)

Appeal No. 3889-AT-69 (Affirmed by 414-CA-69). The claimant did not have good cause to refuse a job when the wages paid and other conditions of work were not substantially less favorable to the claimant than those offered for similar work in the locality, even though she had earned about ten percent higher wages on her last job. (Cited in Appeal No. 87-04333-10-032488 under this same subsection.)

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 500.35 - 500.50

SW WAGES

Appeal No. 116-CA-68. On the date of his initial claim, the claimant refused a referral to a job paying 30¢ per hour less than he earned on his last job. He last earned \$2.08 per hour and stated that he must have \$2 an hour. Claimant named two employers in the same area who paid a starting wage of \$1.97 and \$2.07 an hour for work similar to his last job. HELD: The claimant had good cause to refuse the referral because the pay reduction would have been substantial, local office records showed the wage he demanded existed in the area, and claimant had not been allowed time to try to find work at a wage similar to that paid for his last work. No disqualification under Section 207.047.

Appeal No. 4783-CA-51. A claimant has good cause to refuse work which pays the same hourly rate as her former job but offers none of the substantial fringe benefits (paid vacation and sick leave, paid legal holidays, free medical case, death benefits, time and a half pay for Saturday work and other benefits). The work offered was not suitable in this case.

Also see Appeal No. 2282-CA-77 under AA 500.00 and Appeal No. 1044-CA-65 under SW 295.00.

500.50 WAGES: LOW.

INCLUDES DECISIONS BASED SOLELY UPON THE VALIDITY OF THE WORKER'S CONTENTION THAT THE WAGES OFFERED WERE TOO LOW.

See Appeal No. 2282-CA-77 under AA 500.00. Also see Appeal No. 86-05869-10-041087 under AA 500.00 and SW 500.35.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 500.65 - 500.70

SW WAGES

SW 500.65 WAGES: PIECE RATE, COMMISSION BASIS, OR OTHER METHOD OF COMPUTATION.

DISCUSSION OR REFUSAL BASED ON THE CLAIMANT'S INSISTENCE UPON, OR OBJECTION TO, THE METHOD OF WAGE COMPUTATION.

Appeal No. 27564-AT-65 (Affirmed by 1236-CA-65). A claimant does not have good cause to refuse a job in which she has experience simply because she would be paid on a piece-rate basis. She should have attempted to perform the work to determine whether it would provide the desired wages. Disqualification under Section 207.047.

See Appeal No. 38831-AT-66 (Affirmed by 1429-CA-66) under SW 500.05.

500.70 WAGES: PREVAILING RATE.

COMPARISON OF THE WAGE REFUSED TO THE RATE OF PAY PREVAILING FOR SIMILAR WORK IN LOCALITY. INCLUDE ALSO CASES WHICH DISCUSS THE METHODS OF DETERMINING PREVAILING WAGE RATE.

This line is also used in determinations as to whether the wages of the offered job were those prevailing within the meaning of Section 1603(a)(5) of the Internal Revenue Code or of State labor standards provisions enacted in conformity with the Federal provisions.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 500.70 (2)

SW WAGES

Appeal No. 877-CA-70. If a job pays 10% to 15% per hour less than the wage most commonly paid in the area for the type of work in question, it is not suitable to the claimant and no disqualification is in order under Section 207.047.

Appeal No. 8233-AT-69 (Affirmed by 21-CA-70). Even though a job pays the wage most commonly paid for that type of work, it is not suitable for a claimant who has qualifications that would entitle her to a job paying substantially more, when such claimant has been unemployed only a comparatively short period of time.

Appeal No. 7899-AT-68 Affirmed by 4-CA-69). A claimant does not have good cause to refuse a referral to work because of the rate of pay where it is established the job paid the wage most commonly paid in the area, even though it paid considerably less than the claimant was accustomed to earning. Disqualification under Section 207.047.

Appeal No. 25-CA-66. A claimant who last worked in a metropolitan area for \$3.60 per hour, then moves to a rural area where the most commonly occurring rate is \$2 an hour, does not have good cause to refuse a job in his occupation paying \$2 an hour. Disqualification under Section 207.047 and ineligible under Section 207.021(a)(4), the latter based on his excessive wage demand and his failure to actively seek work.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 510.00 - 510.10

SW WORK, NATURE OF

SW 510.00 WORK, NATURE OF.**510.05 WORK, NATURE OF: GENERAL.**

INCLUDES CASES CONTAINING (1) A GENERAL DISCUSSION OF REFUSAL BECAUSE OF THE CLAIMANT'S DESIRE TO OBTAIN WORK OF A DIFFERENT NATURE, (2) POINTS NOT COVERED BY ANY OTHER SUBLINE UNDER LINE 510, OR (3) POINTS COVERED BY THREE OR MORE SUBLINES.

Appeal No. 31272-AT-66 (Affirmed by 451-CA-66). A claimant with experience in outside sales work does not have good cause to refuse a referral to sales work simply because he assumed, when told that it would require some outside selling, that it would involve selling door-to-door. He should have investigated further. Disqualification under Section 207.047.

510.10 WORK, NATURE OF: CUSTOMARY.

WHERE A CLAIMANT REFUSES EMPLOYMENT BECAUSE OF HIS INSISTENCE UPON, OR UNWILLINGNESS TO ACCEPT, WORK IN HIS USUAL OCCUPATION.

Appeal No. 3103-CA-76. A claimant does not have good cause for failing to apply for work of a type for which she is registered with the Commission and which pays a wage equaling that most commonly occurring in the area for similar work.

Appeal No. 30937-AT-65 (Affirmed by 375-CA-66). A claimant does not have good cause to refuse a referral to work which is in keeping with her past work experience simply because she assumes she could not do the work.

Appeal No. 28235-AT-65 (Affirmed 29-CA-66). The claimant had worked as a porter for the past two years and refused a referral to work as a porter because he did not like that kind of work and hoped to get a job with a grocery chain, although he had no definite prospects. **HELD:** The work was suitable and the claimant did not have good cause to refuse the referral. Disqualification under Section 207.047.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 510. 20

SW WORK, NATURE OF

SW 510.20 WORK, NATURE OF: FORMER EMPLOYER OR EMPLOYMENT.

INVOLVES AN OFFER OF WORK BY THE CLAIMANT'S FORMER EMPLOYER WHICH IS REFUSED. SUCH AN OFFER MAY OR MAY NOT CONCERN THE PRECISE TYPE OF WORK PERFORMED FORMERLY BY THE CLAIMANT.

Appeal No. 26087-AT-77 (Affirmed by 2874-CA-77). The claimant worked full-time as a truck driver. He was discharged with no showing of misconduct connected with the work. After filing his initial claim, the claimant was offered part-time reemployment by that former employer. The claimant refused the offer. HELD: Since the claimant had been discharged by the employer at its convenience and had been offered part-time reemployment by that employer, the claimant had good cause for refusing the offer. No disqualification under Section 207.047. (Also digested under SW 450.40.)

Appeal No. 3200-CA-76. The claimant, a university cafeteria employee, was terminated upon the conclusion of the spring term. Shortly thereafter, the claimant was offered reemployment during the summer term but on a different hourly schedule which was, however, like her previous schedule, normal in her occupation. The claimant declined the offer. In August, the claimant was offered reemployment for the fall term under the identical terms under which she had worked the previous spring except that she would have received a 5% wage increase. The claimant declined the offer because the employer could not assure her that she would have additional help in her duties. However, she had functioned without such help during her earlier employment. HELD: Since the position offered to the claimant in August was the same previously performed by her, the only difference in its conditions being that she would have enjoyed a 5% wage increase, the work was clearly suitable. Disqualification under Section 207.047. (The Commission also affirmed, without comment, the Appeal Tribunal's decision insofar as it awarded the claimant benefits without disqualification and held her ineligible.)

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 510.20 (2)

SW WORK, NATURE OF

Appeal No. 238-CA-71. A claimant is subject to a disqualification if she refuses to return to work similar to that which she had been performing and at a wage not substantially reduced from her ending wage, where she had been laid off previously in a reduction in force and offered no objection to the type of employment or to the wage being offered on recall.

Appeal No. 196-CA-66. A claimant who resigns her job because of dissatisfaction with her working conditions and wage has good cause to refuse a job with the same employer even though he offered her an increase in wages to return.

Appeal No. 4312-AT-63 (Affirmed by 9677-CA-63). The claimant refused reemployment in his old job with his former employer because he had been discharged from that job due to the fact that he was unable to adapt himself to the use of a new egg packing machine. The claimant had good cause for refusing employment from which he had been discharged for reasons other than lack of work. No disqualification under Section 207.047.

Appeal No. 632-CA-65. The claimant had resigned her last work to take care of her invalid mother. She was later offered her job back and accepted and agreed to report for work the next day but did not do so because the person who had replaced her would have had to be fired. HELD: The claimant did not have good cause for not accepting the job. Disqualification under Section 207.047. The disqualification had previously been assessed under Section 207.045 of the Act but was changed to Section 207.047 because the claimant had not performed any services or received any wages after agreeing to report.

Also see Appeal No. 3879-CA-49 under SW 515.10.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 510.40

SW WORK, NATURE OF

SW 510.40 WORK, NATURE OF: PREFERRED EMPLOYER OR EMPLOYMENT.

CLAIMANT'S REFUSAL OF EMPLOYMENT BECAUSE OF HIS DESIRE TO WORK FOR A PARTICULAR EMPLOYER OR IN PARTICULAR EMPLOYMENT, OR BECAUSE OF HIS OBJECTION TO WORK FOR THE PROSPECTIVE EMPLOYER OR IN THE OFFERED EMPLOYMENT.

Appeal No. 1433-AT-68 (Affirmed by 246-CA-68). Although the claimant worked as an electronic assembler for the past eleven months, she had worked prior to that time for more than seven years as a power sewing-machine operator. She refused referral to a job as a sewing-machine operator because such work had made her nervous. The job paid the same wage she had earned in her last job and was suitable. HELD: The claimant did not have good cause to refuse the work as she had not sought medical advice to determine whether such work had been the cause of her nervousness.

Appeal No. 9709-CA-64. Claimant had good cause for failing to apply for a job at a business owned and operated by her former husband. She had remarried and her acceptance of such job could have caused serious marital difficulties.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 515.00 - 515.35

SW WORKING CONDITIONS

SW 515.00 WORKING CONDITIONS.

515.10 WORKING CONDITIONS: ADVANCEMENT, OPPORTUNITY FOR.

WHERE A CLAIMANT REFUSES A JOB BECAUSE OF LACK OF OPPORTUNITY FOR ADVANCEMENT.

Appeal No. 3879-CA-49. A claimant does not have good cause to refuse to return to his former job simply because he had previously been selected for layoff when the employer had to reduce his work force and claimant felt he had no future with the company. Disqualification under Section 207.047. (Cross-referenced under SW 510.20.)

515.35 WORKING CONDITIONS: ENVIRONMENT.

INVOLVES DISCUSSION OF OBJECTIONS TO THE LOCATION OR PHYSICAL CONDITIONS SURROUNDING THE WORK ESTABLISHMENT AT WHICH THE JOB WAS OFFERED.

Appeal No. 337-CA-69. Work is not suitable for a claimant when the evidence shows the condition of the employer's premises is substandard.

Appeal No. 878-CA-68. The fact that work is located in an office in a private home is not good cause for refusing work which is otherwise suitable. Disqualification under Section 207.047.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 515.55 - 515.60

SW WORKING CONDITIONS

SW 515.55 WORKING CONDITIONS: PREVAILING FOR SIMILAR WORK IN LOCALITY.

COMPARISON OF WORKING CONDITIONS, OTHER THAN WAGES AND HOURS, OF A JOB REFUSED WITH THOSE MOST COMMONLY TO BE OBTAINED FOR SIMILAR WORK IN THE LOCALITY.

This line is also used in determinations as to whether the working conditions of the job offered were those prevailing within the meaning of Section 1603(a)(5) of the Internal Revenue Code or of the State labor standards provisions enacted in conformity with the Federal provisions.

Appeal No. 6084-AT-69 (Affirmed by 660-CA-69). Work in a claimant's customary occupation is suitable if it pays the wage most commonly occurring in the area and the duties are normal for such work in the area. Claimant did not have good cause to refuse it for the reason that she assumed she would not be able to perform the work in the working hours assigned. (Cross-referenced under SW 515.65.)

515.60 WORKING CONDITIONS: PRODUCTION REQUIREMENT OR QUANTITY OF DUTIES.

INVOLVES DISCUSSION OF THE CLAIMANT'S REFUSAL OF WORK BECAUSE OF HIS OBJECTION TO SOME PRODUCTION REQUIREMENT, OR THE AMOUNT OF WORK HE WOULD BE REQUIRED TO PERFORM.

See Appeal No. 6084-AT-69 (Affirmed by 660-CA-69) under SW 515.55.

APPEALS POLICY AND PRECEDENT MANUAL

SUITABLE WORK

SW 515.65 - 515.80

SW WORKING CONDITIONS

515.65 WORKING CONDITIONS: SAFETY.

CLAIMANT'S REFUSAL OF WORK BECAUSE OF SOME SAFETY HAZARD.

Appeal No. 1240-CA-71. Work is not suitable if it presents a hazard to the claimant's safety. Although the claimant had on one occasion performed the particular job, he had complained about the safety factor at the time.

Appeal No. 1078-CA-67. The claimant was referred to a job as a guard at the plant which was involved in a labor dispute where acts of violence had been occurring connected with the strike. Claimant's primary occupation was not as a guard. He failed to apply for the position because of potential violence. HELD: No disqualification under Section 207.047 as the work was not suitable.

515.80 WORKING CONDITIONS: SUPERVISOR.

CONSIDERATION OF THE VALIDITY OF THE CLAIMANT'S OBJECTION TO WORK UNDER A CERTAIN SUPERVISOR OR FOR A PARTICULAR EMPLOYER.

See Appeal No. 15990-AT-64 (Affirmed by 713-CA-64) under SW 360.00.