

New York State Department of Labor

Section 1200

REFUSAL OF EMPLOYMENT

Index 1200

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1200. Introduction

Section 593.2 of the Unemployment Insurance Law provides for a disqualification from benefits if a claimant, "without good cause, refuses to accept an offer of employment for which he is reasonably fitted by training and experience, including employment not subject to this article..."

The UI Reform Law amended Section 593.2, effective April 1, 1999, to provide different criteria during the second half of a claim. It states that claimants who are not subject to a recall date or who do not obtain employment through a union hiring hall and who are still unemployed after receiving thirteen weeks of benefits, must accept "any employment proffered that such claimants are capable of performing, provided that such employment would result in a wage not less than eighty percent of such claimant's high calendar quarter wages...and not substantially less than the prevailing wage..."

If a refusal issue arises **at any time** during a claim, there are four conditions to be satisfied before a claimant may be disqualified for refusal of employment.

"A claimant....refuses employment..." In order for a refusal disqualification to be imposed, the individual who refused employment must have been a claimant on the day of the refusal. In other words, (s)he must have been claiming benefits for the day the refusal occurred. (However, see 1205 F 8.)

"Offer of employment" There must be an unconditional offer of a specified job starting on a definite date. A general discussion of job duties, working conditions, etc. does not constitute an offer of employment. A referral to a job opening by the Employment Service is an offer of employment for the purposes of Section 593.2.

"Refuses to accept an offer" A claimant may not be disqualified for refusal of employment unless (s)he has actually refused to accept the job offer. In some cases the refusal is obvious; the claimant unequivocally stated (s)he did not want the position. However, in some cases the facts will be less clear. A claimant's statements or actions deliberately calculated to discourage an offer of employment constitutes a refusal. Honest answers to questions posed by the prospective employer, expressions of genuine reservations about some aspect of the job or a good faith attempt to negotiate better conditions generally do not.

"Without good cause" Section 593.2 provides four conditions, the existence of any one of which requires a finding of good cause regardless of claimant's professed reasons for refusal. They are:

acceptance of such employment would either require the claimant to join a company union or would interfere with his joining or retaining membership in any labor organization; or,

there is a strike, lockout, or other industrial controversy in the establishment in which the employment is offered.

the employment is at an unreasonable distance from his residence, or travel to and from the place of employment involves expense substantially greater than that required in his former employment unless the expense be provided for; or,

the wages or compensation or hours or conditions offered are substantially less favorable to the claimant than those prevailing for similar work in the locality, or are such as are likely to depress wages or working conditions.

A further statutory condition, "reasonably fitted by training and experience", must be satisfied when a refusal issue arises during the **first thirteen weeks** of a claim for benefits.

After establishing that an offer of employment has been made, the local office must determine whether the position is suitable for the claimant. This requires an evaluation of the job duties and of the claimant's educational and work histories. Although the duties of the proffered job need not conform exactly to those of the claimant's previous job, nor utilize all of the claimant's skills or specialized training, there must be a reasonable matching of the claimant's qualifications to the job requirements.

However, a claimant who is still unemployed **after receiving thirteen weeks of benefits**, who has no recall date, and who does not obtain employment through a union hiring hall, must be willing to accept any work he is capable of performing. For a claimant in this circumstance, the following principles apply:

- The phrase "capable of performing" should be construed in a simple, plain language manner. Consideration must be given to any physical or mental limitation claimant may have.
- A claimant's total lack of experience in a particular type of work would not, in and of itself, justify a refusal.
- The fact that the skills required for a job may be below claimants' skills, would not be a relevant consideration.
- A disqualification cannot be issued unless the offer of employment would result in quarterly wages not less than eighty percent of the claimant's high calendar quarter base period wages, and not substantially less than the wage prevailing for similar work in the locality.

A claimant, who refuses an offer of employment because it interferes with his attendance in training approved under the Federal Trade Act of 1974, may not be disqualified for that reason (sub. sec. 599.2). A claimant in training approved under sub sec. 599.1 also has good cause for refusing to accept an offer of employment that would interfere with training.

Even if all the above statutory requirements are met, a claimant may still be able to establish good cause for refusing employment. If the claimant's reason is of a compelling nature, no disqualification should be imposed.

Determinations should be consistent with the principles reported in this section of the Interpretation Service Index and the policies set forth in relevant Special Bulletins (A 710 series).

1205. General

Effective date of disqualification

The effective date of disqualification for refusal of an offer of employment is the date on which the offer is refused and not the date the proffered work is to commence. (Matter of D’Nikinov, 300 N.Y. 618; [A-750-886](#))

Duration of disqualification

The period of disqualification for refusal of employment is not affected by the circumstance that only temporary employment was refused. The disqualification period in such case is the same as a disqualification for refusal of employment for an indefinite length of time. (A.B. 29,661-51; [A-750-1088](#); Principle sustained by Matter of Lehrman, 281 App. Div. 936)

Other considerations

Refusal without good cause to accept an offer of employment made through a channel other than the employment service, resulted in disqualification from benefits. (A.B. 7920-42)

Termination of disqualification

"Subsequent employment which terminates a disqualification does not have to be new employment so that part-time employment continuing from before the date on which a disqualification was incurred meets the requirement of the Law. (A.B. 82,477-61; [A-750-1565](#))

A back-pay award for wrongful discharge, covering a period subsequent to a refusal disqualification, is "earned" remuneration for employment usable in terminating the disqualification (Section 593.2). (A.B. 129,914; [A-750-1652](#))

Vacation pay is not usable in terminating a disqualification since it is not "subsequently" earned remuneration. (A.B. 144,502; [A-750-1696](#))

Obsolete [See Special Bulletin A-710-36](#) (Oct. 19, 1998)

Members of the Reserve Component of the Armed Forces of the United States are totally unemployed while engaging in weekly drill sessions. Participation in and pay received for such drills are neither employment nor remuneration, and may not be used to terminate a disqualification (A.B. 344,489; A.B. 344,490; [A-750-1949](#))

A disqualification from benefits can only be terminated by "employment" as defined in the statute. The statutory definition of "employment" and its exceptions will govern the interpretation of the term "employment". (Matter of Kent A. Greene, 89 8NY 2d 225, [A-750-2101](#))

Employment performed in another state which is not excluded employment in that state can be used for the purpose of terminating a prior disqualification. (A.B. 462,249; [A-750-2102](#))

Inactive claim, question of

Disqualification may not be imposed against a claimant whose claim is inactive at the time of refusal of employment. ("Inactive" due to no claim) (A.B. 10,920-44; [A-750-628](#))

A claimant may not be disqualified for a refusal of employment which takes place on a day on and for which he is not seeking benefits even though his subsequent claim for benefits includes the day on which the employment would have commenced. (Matter of Foscarinis, 284 App. Div. 476; [A-750-1308](#))

An original or additional claim filed in a week after the day of refusal without good cause in the same week, cannot be predated to a date earlier than the first day of unemployment following the refusal. (A.B. 70,207-59; [A-750-1509](#))

A claimant who refuses employment on the day when he files a claim may be disqualified even though the filing takes place after the refusal. (A.B. 60,962-57;)

A decision to engage in self-employment was not good cause for refusing employment by failing to report for work which claimant, upon referral, had accepted. Nor could claimant, by merely failing to meet his next regular reporting day escape the consequence of his refusal on the ground that the refusal occurred at a time when he had ceased to be a claimant. (A.B. 14,725-47; [A-750-813](#))

Lapse of claim because of non-reporting does not prevent a disqualification for refusal of employment occurring during the lapse, if the claimant is reinstated and the reinstatement covers the date on which the employment was refused. (A.B. 22,287-50; [A-750-953](#))

A disqualification for refusal of employment may apply to any person who is a "claimant" that is, "seeking benefits, at the time of the refusal by having filed a claim, even though he has no right to benefits at that time for other reasons. (Matter of Schurman, 16 AD 2d 311; [A-750-1555](#). rev., similarly, A.B. 93,524)

A refusal disqualification is properly imposed for a refusal which occurs during a period in which claimant reports regularly on her assigned reporting dates although claimant could not accrue benefit rights on the day of the offer because she had worked part of that day. (A.B. 28,721-51; [A-750-1079](#))

Relation to other disqualifications

A claimant who has been disqualified for refusal of employment without good cause is not subject to additional disqualifications for refusing subsequent offers of the identical job. (A.B. 67,153-58 and 68,640-59; [A-750-1508](#))

The principle that a claimant may not be disqualified twice for refusal of the same job is controlling even if the disqualification has been terminated by subsequent employment and earnings. (A.B. 232,381)

A disqualification from receiving benefits for refusal of employment may be imposed during a period of suspension from benefits because of misconduct. (A.B. 31,002-52; [A-750-1363](#))

Disqualification for refusal of employment without good cause may be imposed even though claimant had previously been disqualified for voluntarily leaving the same employment. (Matter of Crowe; 305 NY 699; [A-750-1101](#))

A disqualification for refusal without good cause may apply even though the refusal occurs during the disqualification period for a voluntary quit of the same employment. (A.B. 35,349-52; [A-750-1201](#); similarly A.B. 35,792-53; A.B. 39,289-53)

A disqualification may not be imposed for a refusal during a period of uncontested suspension from benefits because of an industrial controversy. (A.B. 53,245-55; [A-750-1407](#))

Claimant, although refusing a job, is not subject to the refusal disqualification but ineligible because of unavailability, if the refusal is for compelling personal reasons, indicating at the same time restrictions which show that the claimant does not satisfy the availability requirements. (Child care) (A.B. 25,970-50; [A-750-1046](#))

An unavailability disqualification for self-imposed non-compelling reasons does not preclude the imposition of an additional disqualification for refusal of employment even if the unavailability predates the refusal. (A.B. 77,331-60; [A-750-1536](#))

Refusal of a one day assignment because of a previously scheduled personal engagement marking a significant event (i.e. claimant's birthday dinner celebration), constitutes a special circumstance and such refusal is with good cause. (A.B. 392.301; [A-750-2012](#))

1210. Offer, what constitutes

By employment service

General discussion between claimant and employment interviewer as to willingness of claimant to accept a position as a trainee in a war industry without an actual offer of referral to such work did not constitute an offer of employment and even though claimant expressed an unwillingness to accept such work, no disqualification for refusal can be sustained. (A.B. 10,280-43; [A-750-589](#))

A referral to part-time sales work to commence at an undetermined future date, the actual hiring to be done at that later date, was not a firm offer of or referral to employment. Disqualification from benefits can not rest on such referrals. (A.B. 11,590-45; [A-750-640](#))

Refusal to accept a referral to employment was held to be without good cause, and the fact that the job order contained a notation that the job probably would not start until January 3 was insufficient of itself to vitiate the referral to employment made on December 20, since the employer had a definite job to offer which was not contingent, speculative or uncertain in its terms. (A.B. 19,234-49; [A-750-892](#))

An offer of employment was deemed withdrawn because the referral card was taken back from a claimant who had requested, upon reasonable grounds, to be allowed to report to the prospective employer on the following morning. (A.B. 7598-42; [A-750-392](#))

Non-disclosure of job details was not good cause for refusal where claimant's attitude and conduct discouraged or prevented disclosure. (A.B. 8273-42; [A-750-427](#); similarly A.B. 13,711-46)

A firm offer of a wage with an assurance of more if experience warranted is necessitated inquiry by the claimant of the employer to ascertain the exact wage that would be paid him. Refusal to accept referral and make such inquiry was without good cause. (A.B. 11,957-45; [A-750-665](#))

By Employer

Refusal of employment meeting statutory requirements is without good cause even though the immediate employment offered by the prospective employer is not identical with that to which claimant was referred by the Employment Service. (A.B. 32,790-52; [A-750-1145](#))

Claimant, who accepted referral and reported to an employer but was not hired as no opening existed, and at that time was requested by the employer to return several days later to ascertain whether there would then be any work which he failed to do, did not refuse employment, as an offer, projected in the future and uncertain in character cannot be made the basis for disqualification. (A.B. 13,017-46; [A-750-753](#))

No offer of employment could be made if prospective employer could not employ claimant because of union agreement. (A.B. 4438-40; [A-750-285](#))

Where a seaman has reasonable prospects of employment because of employment registration seniority, his failure to bid for a position while present at the union hiring hall constitutes a refusal of employment within the meaning of the Unemployment Insurance Law. (A.B. 120,452; [A-750-1626](#)) (see "Comments")

A longshoreman who "badges in" at the waterfront hiring center but fails to bid for a suitable opening refuses employment without good cause. (A.B. 171,042)

1215. Refusal, what constitutes

At employment service

A claimant who at first refused and then several days later when the job had been filled, agreed to accept the referral, was disqualified for refusal. (A.B. 1584-39; [A-750-61](#))

A claimant who, a half-hour after refusing referral, returns to the placement office and agrees to accept it, is not subject to disqualification for refusal of employment. (A.B. 194,930)

Unwillingness to accept referral to a job at a wage rate fixed by the employer in his job order constitutes refusal of employment even though claimant requests permission to contact the employer in order to bargain for a higher salary, such request being denied in accordance with established policy. The refusal was held to be without good cause; the offered wages were at the prevailing rate. (A.B. 21,049-49; [A-750-911](#); similarly. A.B. 40,754-53; A.B. 41,340-53)

Refusal of referral to employment occurred where the employment office withheld referral because claimant wished to contact the prospective employer to negotiate for hours different from those stated by the employer and described in the job order, and the employment office had knowledge that no other hours would be considered. (A.B. 14,920-47; [A-750-807](#))

Assertion that he would not consider work of lesser skill than required in previous work did not constitute refusal of a referral in the absence of an actual offer of a referral. (A.B. 10,261-43; [A-750-579](#))

Where claimant was not misled as to her rights and had indicated an unwillingness to accept a referral to a job for which she was fitted by training and experience, because it was not to her liking as charged, an employment interviewer's promise to secure another job more to claimant's liking was not good cause for refusal of the offered job. (A.B. 8197-42; [A-750-433](#))

Where claimant after accepting referral refused to execute a Civil Service application, which was prerequisite to employment, it was held that claimant refused an offer of employment without good cause. (Federal representative was stationed on employment service premises) (A.B. 11,307-44; [A-750-725A](#))

Claimant's refusal of referral to the U.S. Civil Service Commission for the purpose of taking a clerical test, which was a prerequisite to certification for employment was tantamount to a refusal of referral to employment and was held to be without good cause. (A.B. 11,245-44; [A-750-606](#))

At employer's establishment

If a claimant makes statements calculated to discourage an offer of employment which would otherwise have been made, such action constitutes refusal of employment. (Matter of Zimmerman; 30 A.D. 2d 454; [A-750-1704](#). See "Comments" for examples)

Disqualification for refusal was proper when claimant advised prospective employer that his former employer promised to recall him shortly at which time he would leave if hired, since such statement was designed to cause the employer not to hire him, claimant not having received any such promise. (A.B. 25,754-50; [A-750-1027](#))

Claimant who accepted referral in her regular occupation at \$30 to \$35 per week, the prevailing wage being \$25 to \$35 per week, but when asked by the employer, stated she wanted \$37 per week, whereupon the employer refused her the job, in effect refused employment without good cause. It is not necessary that specific words of refusal be used. (A.B. 15,289-47; [A-750-814](#); similarly, A.B. 16,767-48; A.B. 21,586-49)

Claimant's refusal to accept an offer of permanent employment, except on condition that she be permitted to try out job for one or two weeks, which condition was rejected by the employer, resulted in disqualification for refusal. (A.B.7890-42; [A-750-407](#))

Failure by claimant to comply with prospective employer's demand to start work immediately upon job constitutes refusal of employment without good cause if circumstances are such that the demand is reasonable. (Matter of Spack, 305 N.Y. 753; [A-750-1144](#) (Rev.))

When claimant was interviewed by employer late in the afternoon and was requested to start work immediately, her refusal to begin work until the following morning, due to domestic circumstances, did not constitute a refusal of employment without good cause. (A.B. 11,751-45; [A-750-637](#))

Undue delay in acceptance of offer of employment because of desire to "shop around" for another job subjected claimant to disqualification. (A.B. 158-38)

If claimant, after being hired, informs the employer that he prefers not to start work that day, as requested, because of another job prospect, and the employer, thereupon, withdraws the offer of employment, claimant's action constitutes refusal of employment without good cause where it is found that such information was intended by claimant to discourage the employer from hiring him at least until claimant had an opportunity to explore the other job prospect. (A.B. UCV-118-54; [A-750-1316](#))

Reporting to work inordinately late for a non-compelling reason on the first day of a job is a refusal of employment without good cause when as a result the offer of employment is withdrawn and claimant is not put to work. (A.B. 254,423; [A-750-1845](#))

A claimant, temporarily laid off by a former employer, who discloses to a prospective employer or to an employment interviewer his intention to return to work for the former employer, has not refused employment, even though the disclosure causes a withdrawal of the offer of employment. However, he must accept the offer of employment and leave to the prospective

employer the decision or whether the offer remains open. (Matter of Periera, 72 AD 2d 832; [A-750-1893](#))

Other actions of Claimant

Failure to report to prospective employer for interview because of loss of referral card and failure to return to U.S.E.S. until a week later by which time the position had been filled, was tantamount to refusal of employment without good cause. (A.B. 12,582-45; [A-750-703](#))

Failure to locate prospective employer's shop, and failure to make inquiry or communicate with the placement office until a week later, by which time the position had been filled, showed a complete lack of due diligence and was tantamount to refusal of employment without good cause. (A.B. 12,581-45; [A-750-713](#))

Claimant, who accepted referral but failed to keep an appointment to see the employer the following morning, but telephoned the employer in the afternoon at which time the position was filled, was properly disqualified for refusal of employment without good cause. (A.B. 11,835-45; [A-750-644](#); similarly A.B. 13,979-47)

When claimant failed to personally report to prospective employer for interview after the acceptance of referral card, contending that she had previously visited the employer and was informed that she would be called if and when needed, it was held that the failure to report was refusal of referral without good cause. (A.B. 11,085-44; [A-750-646](#))

Where a seaman has reasonable prospects of employment because of employment registration seniority, his failure to bid for a position while present at the union hiring hall constitutes a refusal of employment within the meaning of the Unemployment Insurance Law. (A.B. 120,452; [A-750-1626](#)) (see Comments)

A longshoreman who "badges in" at the waterfront hiring center but fails to bid for a suitable opening refuses employment without good cause. (A.B. 171,042)

When a claimant fails to contact a former employer after receiving a mailed notice from the employer offering him employment, the claimant's failure to respond to the offer prevents the employer from providing further information, and is tantamount to a refusal of employment. (A.B. 499,444; [A-750-2113](#))

Reasons for Refusal

1220. Bus or train fare, lack of

Lack of bus or train fare or money for gasoline for own car is generally not an acceptable excuse for refusal of referral to employment. (A.B. 67,128-58; A.B. 85,450-61)

1225. Conscience

A sincere objection against working on military implements of destruction because of religious beliefs, acceptance of such work being in fact an offense to claimant's religious and moral conscience, is not a proper basis for disqualification for voluntarily leaving employment without good cause when claimant was transferred to such work from work which was not objectionable to him. (A.B. 34,048-52; [A-750-1161](#))

Refusing a job because of a sincerely held religious belief is with good cause even though the claimant is not a member of an established religious sect. (Frazer v. Illinois Department of Employment Security et al.; Supreme Court of the United States- decided March 29, 1989; [A-750-2017](#))

1230. Domestic reasons

Claimant, although refusing a job, is not subject to the refusal disqualification but ineligible because of unavailability, if the refusal is for compelling personal reasons, indicating at the same time restrictions which show that the claimant does not satisfy the availability requirements. (Child care) (A.B. 25,970-50; [A-750-1046](#))

Refusal of employment in usual line of work at the prevailing rate primarily because the 5:30 p.m. closing hour interfered with domestic responsibilities (shopping and preparation of meals) was without good cause since, although the usual closing hour in claimant's occupation was 5 p.m. and occasionally 5:15 p.m., claimant's objection was prompted by conditions of personal convenience rather than hardship. (A.B. 18,426-48; [A-750-867](#); similarly, (when the closing time was 6 p.m.) A.B. 18,303-48; A.B. 18,729-49)

Claimant, the mother of a fourteen-year-old child, was justified in refusing employment on a rotating day and night shift where acceptance of proffered employment would have necessitated leaving her child alone at night, her husband being also employed on a rotating day and night shift. (A.B. 10,166-43; [A-750-519](#))

Where claimant's work experience was solely of a live-in nature, at an out-of-the-city children's camp, and she was offered a job at an out-of-the-city children's camp for substantially similar work as that previously performed by her, held that in the absence of changed domestic circumstances, her refusal of the offered job on the ground that she could not leave the city because of her domestic circumstances was not with good cause. (A.B. 9228-43; [A-750-460](#))

Unwillingness to call for and deliver homework to employer's establishment, because it interfered with domestic duties, was not good cause for refusing homework. (A.B. 10,179-43; [A-750-511](#))

1235. Duration of offered employment

Refusal of employment because temporary was not justified. (A.B. 7951-42; [A-750-396](#); (Principle confirmed by Matter of Hernandez, 27 NY 2d 811 aff'g 33 A.D. 2d 972; Cert. Den. 401 U.S. 986)

Refusal of employment for one day by a recalled employee, the employment being offered as emergency re-employment without regard to seniority but in accordance with the terms of a union agreement, was held to be without good cause, even though the union had advised its members only to accept such employment for a minimum of three days and no disciplinary action by the union flowed from the disregard of such advice. (Ref. 526-109-50R; [A-750-946](#))

A legal secretary who refuses referral to a one day job refuses employment without good cause. (Matter of Walls, 26 A.D. 2d 883)

Refusal of a one day assignment because of a previously scheduled personal engagement marking a significant event (i.e. claimant's birthday dinner celebration), constitutes a special circumstance and such refusal is with good cause. (A.B.392.301; [A-750-2012](#))

1240. Fringe Benefits

If under conditions prevailing in a locality, combinations of valuable fringe benefits, such as hospital-medical insurance, retirement plan, and vacation-holiday pay, are provided by employer for an occupation, refusal of employment in that occupation is with good cause if such fringe benefits are not furnished in the offered job, without their absence being compensated by higher wages, since the lack of such combination of fringe benefits renders the conditions offered to the claimant substantially less favorable than those prevailing for similar work in the locality. (A.B. 123,666A and 131,684A; [A-750-1656](#))

If the content, that is, the value of the fringe benefits of offered employment is markedly inferior to that prevailing for similar work, good cause for refusal may exist, even if the types of fringe benefits involved are identical. (A.B. 111,278A; [A-750-1669](#)) (See "Comments" for explanation of principle)

If fringe benefits are not customarily offered for temporary jobs, a refusal of temporary employment because of their absence is without good cause when the usual fringe benefits for permanent employment are only provided after a qualifying period which is not shorter than the duration of the offered temporary job. (Matter of Shanley; 27 AD 2d 496; [A-750-1676 Rev.](#))

1245. Health

Belief, supported by facts, that work would endanger health was good cause for refusing referral. (A.B. 10,152-43; [A-750-551](#))

Belief based upon conjecture and not fact that work would adversely affect health was not good cause for refusing to accept employment for which claimant was reasonably fitted by training experience. (A.B. 6976-42; [A-750-339](#))

Refusal of employment in usual occupation as a sewing machine operator for the stated reason that piece work would make her nervous was without good cause because her contention was

based purely on speculation as she had never worked on a piece work basis, a large majority of workers in her occupation were piece workers and opportunities in her occupation on a weekly basis were greatly limited. Therefore it was incumbent upon her to accept the job and try the work. (A.B. 18,182-48; [A-750-863](#))

Refusal of employment on an alternating day and night basis, which basis might have adversely affected claimant's health, was with good cause. (A.B. 9718-43; [A-750-481](#))

Arthritic claimant was justified in refusing to accept referral to job in basement on the uncontroverted ground that the dampness there would adversely affect her health (A.B. 9282-43; [A-750-498](#))

Refusal of employment which caused claimant's hands to bleed and subjected him to coughing fits was justified even though difficulty would cease after he became hardened to work. (Ref. 541-17-39R)

A contention of being allergic to acetone and glue was not considered good cause for refusing referral to employment assembling and pasting jewelry since such contention was based upon a experience in using those substances for one-half day twenty years ago at which time no medical examination was made to justify such conclusion and no medical proof was submitted that such allergy existed at the time of the job offer. (A.B. 18,418-48; [A-750-875](#))

1250. Hours

Legal standards

All reasons which constitute good cause for refusal of employment must be considered, even though not advanced by the claimant. (Dept. of Labor policy)

Prevailing total hours

Where, considerable portion of the employees in an occupation work from 8:30 a.m. to 5:00 p.m., claimant, in the absence of compelling reasons, does not have good cause to refuse employment at those hours even though the predominant hours of employment are from 9:00 a.m. to 5:00 p.m. (A.B. 93,499; [A-750-1575](#))

A forty hour work week is not substantially less favorable than the 35 to 37 1/2 hours prevailing in the locality for similar work (Matter of Prassos, 46 AD 2d 844)

Arrangement of hours (shifts, weekends. etc.)

Refusal of employment which required thirty minutes traveling time from claimant's home and which was one of several offers during about seven weeks of unemployment solely because the starting hour was 8:00 a.m. was held to be without good cause. (A.B. 11,483-44, [A-750-603](#))

Refusal of employment solely because the hours were 9:15 a.m. to 6:00 p.m. was without good cause as the work day was not such in excess of the work day in prior employment, 8:45 a.m. to 5:30 p.m., and afforded substantially the same opportunities to perform household duties. (A.B. 12,848-46; [A-750-731](#); similarly, A.B. 13-521-46; 14,281-47)

Refusal of employment with hours extending into the late evening because those hours would interfere with the social life of claimant who had a work history of daytime hours, is without good cause since such reasons are based on personal convenience rather than hardship. (A.B. 31,938-52; [A-750-1123](#))

Refusal of employment with customary hours in the industry because the hours interfere with attendance at night college classes is without good cause regardless of work opportunities at other hours at which claimant previously worked. (A.B. 49,253-55; [A-750-1361](#))

Where teachers in private schools, with few exceptions, are expected to work both day and evening hours, a refusal of such employment requiring teaching two evenings per week was without good cause, since the hours of employment were prevailing in the locality for the type of work offered and the employment would not impose upon claimant any undue hardship, mere inconvenience being no ground for refusing employment which otherwise meets the tests of the statute. (A.B. 13,519-46; [A-750-762](#))

Refusal of employment on a daily split shift basis which would require claimant either to sleep in and relinquish her home life; or to make six trips daily, each trip requiring one hour to and from work; or to remain at the place of employment all day from 8:00 a.m. to 9:00 p.m., was with good cause since acceptance would have caused undue hardship for claimant who previously had always worked on a one shift basis and lived at home, and since employment opportunities under such conditions currently existed. (A.B. 26,784-51; [A-750-1040](#))

Refusal of work by a salesperson because it requires Saturday evening employment is without good cause (A.B. 32,566-52)

Claimant, the mother of a fourteen-year-old child, was justified in refusing employment on a rotating day and night shift where acceptance of proffered employment would have necessitated leaving her child alone at night, her husband being also employed on a rotating day and night shift. (A.B. 10-166-43; [A-750-519](#))

Refusal of employment on an alternating day and night basis, which basis might have adversely affected claimant's health was with good cause. (A.B. 9718-43; [A-750-481](#))

When the majority of available positions in claimant's occupation required Saturday employment, a refusal of employment because it necessitated Saturday employment, which was based entirely upon personal preference, was held to be without good cause. (A.B. 11-285-44; [A-750-608](#))

Overtime

In the absence of any valid circumstance, either economic, domestic, or condition of health, which would make the work an undue hardship, claimant's refusal of employment because it required a six-day work week of forty-eight hours was without good cause. (A.B. 11,730-45; [A-750-639](#))

Unwillingness to work occasional overtime customary in the trade and for which extra compensation would be paid was not good cause for refusal of employment for which reasonably fitted by training and experience. (A.B. 8951-43; [A-750-451](#))

Full-time work, refusal of

A claimant whose last employment was full-time for a substantial period, (7 months) does not qualify as a short-time worker so that despite a prior history of considerable short-time employment (2 1/2 years) refusal of full-time employment is without good cause. (A.B. 56,876-56; [A-750-1439](#))

A claimant, although he has a work history as a short-time worker, who is willing to accept full-time employment (See Section 596.4) may be disqualified for refusing such employment when the reasons for the refusal are other than a desire for short-time employment. (A.B. TEC-283; [A-750-1568](#))

Part-time work, refusal of

A part-time worker must be ready and willing to accept work during hours of the day that normally prevail for such part-time work, regardless of convenience or preference for other hours. (A.B. 14,920-47; [A-750-807](#))

Where claimant's former employer for whom he had worked full time in the past offered to re-employ him for two days a week at his regular rate of pay, claimant's refusal of that offer, because he wanted full-time and not part-time work, is without good cause. (Matter of Gadd, 278 App. Div. 1035; [A-750-1059](#)).

Refusal of otherwise suitable part-time work at less than customary hours per day and less than usual working days per week is without good cause even though claimant has a work history of full-time employment. (Matter of Krieger, 279 App. Div. 681; [A-750-1061](#)) (But see 5,6 below)

A part-time worker who without compelling reasons refuses proffered employment in which the distribution of total number of hours within a working week merely differs from his customary schedule of working hours, does so without good cause. (A.B. 61,345-57; [A-750-1468](#)) (But see 5,6 below)

Refusal of part-time employment (18 hours) spread over a four-day period in a statutory week is with good cause when claimant's earnings for such work is less than the benefit rate to which he is entitled for a full statutory week of unemployment. (Matter of Scranton, 12 N.Y. 2d 983; 14 AD 2d 953, aff'g. A.B. 79,057-61; [A-750-1541](#))

Refusal of part-time employment on five days a week is with good cause if claimant's pay would be less than his benefit rate. (A.B. 78,691-61; [A-750-1557](#))

Moving from a labor market where a claimant was able to earn a high wage which established the benefit rate, to an area where the prevailing wage is below the claimant's benefit rate, does not provide good cause for refusal of employment because the offered job pays less than the benefit rate. (A.B. 106,208)

The job skills required by a regular teacher are different from those required of a per diem substitute teacher. Therefore:

A Claimant whose primary base period employment has been as a regular teacher is not reasonably fitted by training and experience to be a per diem substitute teacher.

To determine whether the wages offered for a per diem substitute position are "substantially less favorable than those prevailing for similar work in the locality," the rate to be considered is that prevailing for per diem teachers. (A.B. 346,709A; [A-750-1943](#))

1255. Promise or Possibility of other work

When a claimant has a reasonable expectancy of recall to his regular job in a short time, refusal of referral to other employment is with good cause, in the absence of evidence that the prospective employer would accept a temporary employee. (A.B. 130,482)

Referral by the employment service to two employers at the same time does not give a claimant the choice of refusing suitable employment offered by the employer who interviewed him first, and the claimant is properly disqualified for such refusal even though there was a possibility of obtaining better terms from the other employer. (A.B. 52,597-55; [A-750-1394](#))

1260. Residence requirement

Recent purchase of home which prompted refusal of a live-in job for which fitted by training and experience did not justify refusal of employment. (A.B. 1286-39)

Where claimant's work experience was solely of a live-in nature, at an out-of-the-city children's camp, and she was offered a job at an out-of-the-city children's camp for substantially similar work as that previously performed by her, held that in the absence of changed domestic circumstances, her refusal of the offered job on the ground that she could not leave the city because of her domestic circumstances was not with good cause. (A.B. 9228-43; [A-750-460](#))

1265. Safety

Genuine and reasonable fear for personal safety constitutes good cause for refusing or leaving employment requiring walking through dark and deserted streets late at night. (A.B. 148,046; [A-750-1707](#))

1270. School attendance

Refusal of employment with customary hours in the industry because the hours interfere with attendance at night college classes is without good cause regardless of work opportunities at other hours at which claimant previously worked. (A.B. 49,253; [A-750-1361](#); similarly A.B. 270,772)

Refusal of employment because the hours offered conflicted with daytime attendance at college is without good cause even though the claimant had previously worked evenings (A.B. 211,508)

1275. Training and experience

General

Determining whether a claimant is reasonably fitted by training and experience for employment offered depends on whether a skill has been acquired, whether such skill is of some value in the existing labor market and whether the offer of employment represents an attempt to match the claimant's proved qualifications, in a reasonable degree, to specifications of existing jobs; in arriving at a conclusion a comparison between former wages and those offered provide an additional measuring rod. Finally, it must be determined whether the wages offered are substantially less favorable than those prevailing for similar work in the locality. (A.B. 12-319-45; [A-750-720](#))

Claimant, who refuses employment for which he is reasonably fitted by training and experience, although not fitted with complete exactness, such as the baking of Italian and French bread and cakes against that of American style bread and rolls, does so without good cause since the statute does not contemplate such a precise selection of employment. (Matter of Strazza, 278 App. Div. 1036; [A-750-1052](#))

Possession of specialized skill, such as that of "chemical" stenographer, does not constitute good cause for refusal of employment as a general stenographer since the full utilization of all skills is not the effective test to be applied under the statute, but rather the availability of work for which the claimant is fitted by training and experience; an appreciable difference in salaries, \$58 as against \$41 a week, was disregarded. (Matter of Greaser, 279 App. Div. 702; [A-750-1064](#)).

A stenographer who refused an offer of employment as a typist-clerk at a salary satisfying the prevailing wages for either typist-clerk or stenographer, held to have without good cause refused employment for which she was reasonably fitted by training and experience. (Matter of Boyle, 277 App. Div. 1155; [A-750-972](#))

An executive secretary is not reasonably fitted by training and experience for work as secretary and, therefore, generally has good cause to refuse such employment. (A.B. 185,963; [A-750-1769](#))

Refusal by a claimant of employment in his former occupation because of his desire to utilize skills newly acquired in a training program under the Manpower Development and Training Act is with good cause when the claimant was not afforded a reasonable length of time to secure the work for which so trained. (Ref. 544-590-66; [A-750-1657](#))

A teacher licensed in a specific academic area does not have good cause to refuse a limited teaching assignment not within the area of her license or training where the school is willing to accept her for the assignment. (A.B. 285,227; [A-750-1885](#))

Previous employment as a draught beer salesman at \$50 per week did not justify refusal of referral to employment as a bottle beer salesman at the rate of \$45 per week. The Court decided:

The salary difference of ten percent between the offered employment and claimant's last employment was not such a drastic reduction as to justify a refusal.

There is nothing in the law which asserts that a claimant should be allowed at least thirty days of benefits before being compelled to take a position.

The wording of the statute precludes the theory that a claimant may refuse employment simply on the basis that it involves some smaller degree of skill than his last employment. The employment offered must be one for which the claimant is reasonably fitted by training and experience and need not be at precisely the same level of skill at which he was last employed. (Matter of Heater, 270 App. Div. 311; [A-750-697](#))

A claimant, unable to perform work utilizing highest skills because of physical impairments, is expected to accept referral to employment at a lesser skill and wage consonant with his physical limitations. Thus, where the evidence indicated that claimant was unable to secure work, at his previously acquired highest skill as machinist, because of his physical limitations (diabetes, asthma, and high blood pressure), refusal of employment as stock clerk and inspector of machine parts at reduced wages which would have utilized the claimant's presently highest attainable skill was without good cause. (Matter of Nednick, 270 App. Div. 124; [A-750-687](#))

Refusal of referral to employment as a lathe operator by an apprentice machinist helper was with good cause since only part of his knowledge would have been utilized and acceptance would have seriously retarded his training as a machinist which the State encourages through the adoption of Article 23 of the Labor Law. (A.B. 16,453; [A-750-843](#))

A sewing machine operator who completed a training course and was licensed as a hairdresser refused without good cause employment in her usual occupation since "where a person is

reasonably fitted for more than one kind of employment, he does not bring himself within the benefits provided by the statute if he refuses one kind merely because he prefers the other". (Matter of Delgado, 278 App. Div. 237; [A-750-1015](#)).

The job skills required by a regular teacher are different from those required of a per diem substitute teacher. Therefore:

A Claimant whose primary base period employment has been as a regular teacher is not reasonably fitted by training and experience to be a per diem substitute teacher.

To determine whether the wages offered for a per diem substitute position are "substantially less favorable than those prevailing for similar work in the locality," the rate to be considered is that prevailing for per diem teachers. (A.B. 346,709A; [A-750-1943](#))

Seasonal occupation

Refusal of a job below claimant's highest skill, while there are no reasonable employment opportunities in such highest skill because of seasonal conditions, is without good cause if the claimant is fitted by training and experience for the job and the wages, although appreciably below those paid for the higher skill, are prevailing for the offered work, (Matter of DeBruvne; 278 App. Div, 1036; [A-750-1055](#))

A job at union piecework rates in claimant's occupation as an operator in the garment industry, when it is within the limits of a conversion chart prepared by the employment service for the referral of operators to lower price lines during the slack period in the industry, satisfies the requirement of being reasonably fitted by training and experience for the employment in question. (A.B. 31,753-52; [A-750-1168](#))

Having worked only seasonally for four years as fur worker and with preliminary training being capable of becoming sewer on jackets, good cause did not exist for claimant to refuse such latter employment at least during the off season (A.B. 9361-43; [A-750-518](#))

A claimant whose occupation is that of a model in the garment industry and who does not have any experience as a retail sales person "has good" cause in refusing a sales job in a retail establishment, even though conditions such as these prevail: claimant had been unemployed for an appreciable length of time; job opportunities as a model are temporarily limited; the duration of the offered job is only temporary (Christmas season); the prospective employer does not require retail sales experience; during periods when the former employer did not utilize claimants services as a model because of diminished activity, claimant assisted other employees in work such as ticketing garments and preparing statements to customers for mailing. (A.B, 42,209-53; [A-750-1252](#))

1280. Travel time, method or cost

Refusal of employment was without good cause where proffered employment paid the prevailing wage and a contention of unreasonable distance was refuted by the fact that thousands of other workers in the metropolitan area traveled to the same locality. (A.B. 10,890-44; [A-750-577](#))

Travel time to a place of employment of up to 90 minutes each way is not excessive in metropolitan areas. (A.B. 122,465; similarly Matter of Ruggilo, 51 A.D. 2d 838)

Refusal of employment necessitating one and one-half hours travel on the ground that traveling made claimant nauseous, was without good cause even though supported by a medical statement; no credence was given to the vague and contradictory proof submitted by claimant who had previously traveled without ill effects and who, prior to the referee's hearing, informed the local office that she had no physical defects, the only reason for the refusal being "travel time is too long." (A.B. 23,795-50; [A-750-987](#); similarly. A.B. 24,125-50)

Contention that proffered employment was at an unreasonable distance was overcome by the fact that a large number of residents of claimant's community were employed by proposed employer and additional expenses were provided for by increased compensation. (A.B. 7823-43; [A-750-423](#))

Refusal of employment was without good cause where transportation expense, although considerably in excess of the fare required in claimant's previous employment, was necessitated by the fact that claimant had in the meantime removed her residence to a more distant community, since it was not the legislative intent to make Section 593.2 (c) of the Unemployment Insurance Law applicable to a situation such as the one presented herein. (A.B. 22,445-50; [A-750-1016](#))

Refusal of employment on account of inconvenient transportation facilities was held not justified when such inconvenience was occasioned by claimant's voluntarily moving to another locality which was 2 1/2 miles from the place of employment. (A.B.3293-40; [A-750-205](#))

The necessity for paying double carfare was not good cause for the refusal of employment for which fitted by training and experience. (A.B. 6599-41;)

Necessity of walking eight blocks to and from work was not good cause for refusing employment for which claimant was fitted by training and experience. (A.B. 6530-41; [A-750-337](#))

Where the proffered employment required more than two hours travel each way and cost of transportation was substantially greater than in last employment, good cause for refusal existed irrespective of period of unemployment. (A.B. 9705-43; [A-750-545](#))

Refusal of employment because it took two hours to reach the employer's establishment as directed by the placement interviewer, although the distance could have been covered in one

hour by a different route, was with good cause as claimant knew of no shorter route and relied upon directions. (A.B. 12-045; [A-750-666](#))

Refusal of referral to employment eighteen miles from her home was with good cause where claimant had previously worked five miles from her home, the currently severe winter weather made a share-the-ride plan difficult to arrange at the time and there were reasonable possibilities of employment much nearer. (A.B. 12,132-45; [A-750-693](#))

1285. Union relations

Refusal of employment because it would have required claimant to join a union was held to be without good cause. (A.B. 26,009-50; [A-750-1038](#); Principle confirmed by (Matter of Russell, 33 AD 2d 592, motion dismissed 27 N.Y. 2d 800)

Refusal of temporary employment in a union shop because of unwillingness to pay a reasonable fee for a union work permit, is without good cause. (A.B. 30,600-52; [A-750-1120](#))

If an employer demands immediate union membership as a condition of hire in employment to which the Federal Labor Management Act, 1947,(Taft-Hartley Act) applies, unwillingness to comply with such demand does not result in a disqualification for refusal without good cause since that Act declares such condition to be an unfair labor practice. Under that Act, union membership may only be required as a condition of employment on or after the thirtieth day following the beginning of employment if there is a union agreement to that effect. (A.B. 34,937-52 sustaining Ref. 3-46-52R; [A-750-1140](#))

Refusal to sign a form obligating a claimant to join a union within 30 days after commencing employment does not subject the claimant to disqualification for refusal of employment. Under the Taft-Hartley Act union membership may be required only on or after the thirtieth day of employment (A.B. 34,877-52).

A claimant, member of a union, does not have good cause to refuse, employment because it requires transfer to another local of the same union since such transfer would not have interfered with claimant's membership in a labor organization within the meaning of Section 593.2a of the Law. (A.B. 114,080; [A-750-1624](#))

Requirement as a condition of employment that claimant transfer at substantial sacrifice from one local union to another affiliated with the same international justified refusal. (A.B. 1920-39; [A-750-64](#))

If acceptance of proffered employment would not interfere with claimant's retention of membership in his union, refusal because of immediate loss of suspension of some membership benefits, such as hospitalization, and because of potential further losses, such as retirement and life insurance benefits, in the event of continued employment in industries outside the union's

jurisdiction does not constitute good cause for refusal of such employment. (A.B. 42,766-54; [A-750-1280](#))

If a claimant who has reached the retirement age would be eligible for a pension under a union retirement plan in a few months by having completed two years of continuous employment exclusively within the jurisdiction of the local union or its affiliates, the claimant has good cause for the refusal of employment which would have broken this condition and required another two years of employment in compliance with the condition in order to reinstate retirement eligibility. (A.B. 69,980-59; [A-750-1515](#)) (Use restrictively - See Comments)

1290. Wages

(See Special Bulletin [A-710-32](#), and [Index 1240](#))

General

Where claimant's refusal of referral to employment in usual occupation and paying prevailing wages was based on her desire for higher wages, the refusal was without good cause, even though the referral was made four days after the application for benefits. (Matter of Turitz, 267 App. Div. 846; [A-750-524](#))

Belief that experience and skill warranted a higher salary was not good cause for refusing referral to usual occupation at approximate wages previously earned, even though the referral was made the same day that claimant filed an original claim and within one month thereafter claimant obtained more remunerative employment. (Matter of Matthey, 267 App. Div. 845; [A-750-529](#))

Preference for higher wages because of financial and domestic responsibilities did not justify refusal of employment for which fitted at prevailing wages. (A.B. 8136-42; [A-750-417](#))

Refusal of referral to employment at a salary of "\$30 to \$35" weekly in claimant's usual occupation was without good cause because the prospective employer upon interview might have paid \$35 per week, which was the prevailing wage and the claimant was not justified in assuming that she would receive the lower figure. (A.B. 14,541-47; [A-750-808](#))

Refusal of employment without good cause did not occur where claimant was denied permission to call upon the employer for the purpose of negotiating for salary of \$40 per week, the offer being \$35 to \$40, since the prevailing rate for skills possessed by claimant was above \$40 per week and claimant was entitled to an opportunity to make the best bargain possible for her services. (A.B. 16,131-47; [A-750-896](#))

Refusal of part-time employment (18 hours) spread over a four-day period in a statutory week is with good cause when claimant's earnings for such work is less than the benefit rate to which he

is entitled for a full statutory week of unemployment. (Matter of Scranton, 14 AD 2d 95, 12 N.Y. 2d 983; aff'g A.B. 79,057-61; [A-750-1541](#))

Moving from a labor market where a claimant was able to earn a high wage which established the benefit rate, to an area where the prevailing wage is below the claimant's benefit rate, does not provide good cause for refusal of employment because the offered job pays less than the benefit rate. (A.B. 106,208)

Refusal of a job, because the offered wages are substantially below those last earned, is without good cause even though claimant has extensive experience in the occupation and the offered wages are at the lowest level of the range of prevailing wages for claimant's occupation, whereas the last wages earned by him were near the highest level of such range. (Matter of Wetzig 279 App. Div. 833, aff'd 304 N.Y. 916; similarly, Matter of Ackerman, 279 App. Div. 963 and Matter of Locurto, 279 App. Div. 1110)

Wages within the range of those paid to most employees in claimant's occupation are not "substantially less favorable to the claimant than those prevailing for similar work in the locality" even though they are lower than the wages paid to the majority of those among such employees with claimant's training and experience and even though the claimant previously earned wages at a higher level. (Matter of Barnett, 208 App. Div. 1011; A.B. 26,751-51; [A-750-1164](#))

An art director, who had commanded a salary of \$10,000 to \$15,000 per year, was held to have refused with good cause an offer of employment as an art director at \$4500 annually, made to him two months after his registration, on the grounds that in order to obtain a job, commensurate with his previous earnings and experience, required more time to negotiate and that taking a \$4500 job would cause the claimant to lose prestige. (Matter of Groner, 293 N.Y. 802; A.B. 10,105-43; [A-750-597](#))

Choosing layoff rather than accepting transfer to another job because it would entail a substantially reduced rate of pay is a leaving of employment without good cause, provided the offer meets the statutory tests, including those of suitability and prevailing wages. (Matter of Bus, 37 A.D. 2d 98; [A-750-1741](#))

Even though the employer is a base period employer and the wages are the same as those previously received, a claimant has good cause to refuse employment in his former job when the offered wages are substantially below prevailing and the principle that substandard wages do not generally constitute good cause for a voluntary leaving of employment does not apply to cases of recall after separation. (Case deals with detective agency guards) (A.B. 81,940-61 et al; [A-750-1559](#))

An agreement made in the course of employment to increase pay, with the amount and date specified, becomes, in the absence of special circumstances, a condition of the employment which, if not fulfilled, justifies voluntary leaving and subsequent refusal to return without such

increase. (A.B. 165,156A; [A-750-1740](#)) (For example of "special circumstances" see A.B. 50,097; [A-750-1374](#))

Employment which meets statutory requirements may not be refused with good cause because the wages actually offered by the employer at the job interview are lower than those specified by the Employment Service at the time of the referral. (Matter of Krystofik, 284 App. Div. 34; A.B. 38.921-53; [A-750-1248](#) (Rev.))

Prevailing rate

Refusal of employment is with good cause if the offered wages are more than 10% below a prevailing rate established on the basis of the weighted average of the wages received by the middle 50% of workers in the occupation. (Matter of Marsh, 13 N.Y. 2d 235; A.B. 81,540; [A-750-1570](#))

Wages offered being less than the wages being paid to the majority of employees actually engaged in work of a like nature in the locality constituted good cause for refusing employment even though the offered wages were equal to those being offered to new employees. (A.B. 11,354-44; [A-750-683](#))

The proper method of determining whether an offered piecework rate meets the statutory requirements as to compensation in a particular job is to compare that rate with piecework rates being paid for similar work in the locality; a comparison with claimant's previous earnings is not a proper test. (A.B. 44,131-54; [A-750-1323](#))

Where claimant, a piece-worker and member of the dressmakers' union, refused referral because rate of pay was not then settled, disqualification was proper since it was the custom in the industry, and the claimant was cognizant of it, that the rates were settled at the commencement of the season between the shop committee which represented the employees and a representative of the employer and that such rates were prevailing rates. (A.B. 9774-43; [A-750-502](#))

Refusal of a job offer at a salary which bears a reasonable relationship to claimant's demonstrated earning capacity is without good cause when it is not feasible to obtain reliable prevailing wage information because of the characteristics of the occupation. (A.B. 56.378-56; [A-750-1438](#))

Generally, in determining the prevailing wage of an occupation common to all industries (Ass't. Bookkeeper), surveys of wages paid to such workers in the various industries should be taken into account rather than considering only wage surveys in a particular segment of industry (utility establishments.) (Matter of Shotkin, 10 A.D. 2d 738; [A-750-1517](#))

Refusal of otherwise suitable employment as a pipe coverer at a shipyard is without good cause when the offered wages are those which prevail for such occupation in the marine industry even though the prevailing wages for pipe coverer in the building and construction industry are substantially higher and even though the occupational code classification is the same for pipe coverer in both these industries, when it can be found, as a fact, that the work of a pipe coverer in the marine industry is different from that in the building and construction industry. (Matter of Matvevich, 15 A.D. 2d 387; A.B. UCFE 284-58; [A-750-1507](#))

The statutory requirement relating to prevailing wages applies to conditions in the locality of the proffered employment (Nassau County) rather than to conditions prevailing in the area of previous employment. (Queens County). (A.B. 41,331-54; [A-750-1324](#))

Claimant who had moved from N.Y.C. to a suburban locality and refused employment in her usual occupation in that locality because of a desire for higher wages, held to have refused employment without good cause since the employment offered was at the prevailing rate in the locality of her residence in which the opening existed. Her sporadic efforts to obtain employment in N.Y.C. where salaries for her occupation were higher were held insufficient to support her contention of availability in that area. (A.B. 21,391-49; [A-750-928](#))

The job skills required by a regular teacher are different from those required of a per diem substitute teacher. Therefore;

A claimant whose primary base period employment has been as a regular teacher is not reasonably fitted by training and experience to be a per diem substitute teacher.

To determine whether the wages offered for a per diem substitute position are "substantially less favorable than those prevailing for similar work in the locality," the rate to be considered is that prevailing for per diem teachers. (A.B. 346,109A; [A-750-1943](#))

Where a job offer is made to the claimant directly by an employer, the claimant's lack of knowledge of Prevailing Wage data prior to the refusal of employment does not provide good cause, since the Claimant Information Handbook advises claimant that such Prevailing Wage Information is available through the DoES offices and is also on the Department of Labor's public internet site. (A.B. 502,938A; [A-750-2115](#))

1295. Other reasons for refusal

Employment which meets statutory requirements may not be refused with good cause because the wages actually offered by the employer at the job interview are lower than those specified by the Employment Service at the time of the referral. (App. Div. Matter of Krystofik, 284 App. Div. 34; [A-750-1248](#) (Rev.))

Refusal of employment because the hours of employment are slightly longer than stated on the Job Service order is without good cause. (A.B. 53,409-55)

Where claimant refused to submit to a physical examination required by his prospective employer, it was held that claimant refused an offer of employment without good cause. (A.B. 11,043-44; [A-750-586](#); similarly, A.B. 18,846-49)

Refusal of employment is with good cause when claimant must pay for a physical examination in order to obtain the job. (A.B. 54,075-56; [A-750-1410](#))

Disqualification from benefits was applied where claimant, mistakenly informed on first visit to employer that no opening existed, refused to return when error was ascertained. (A.B. 2059-40, [A-750-63](#))

Refusal of an offer of reemployment by former employer is with good cause when past experience indicates that the employer subjects the claimant to abuse and insults and when no assurance is given that this situation will be alleviated. (A.B. 39,362-53; [A-750-1220](#)).

Prejudice against the garment industry was not good cause for refusing employment therein. (A.B. 10,019-43; [A-750-513](#))

The fact that claimant, a member of the enlisted reserve of the United States Army, was subject to duty on twenty-four hours call, did not justify refusal of employment for which reasonably fitted by training and experience. (A.B. 9541-43; [A-750-497](#))

Refusal of temporary employment in usual occupation during a slack period because of intention to leave the insurance office jurisdiction for a week's vacation was without good cause. The referee's decision was modified as he failed to pass on the primary issue of refusal but held that claimant was unavailable. (A.B. 13,853-46; [A-750-769](#))

Leaving employment because of employer's continual failure to pay wages on time in violation of law, is with good cause, and a refusal to return is justified when no assurance is provided against repetition of such practice. (A.B. 249,137; [A-750-1847](#))

Claimant's refusal to accept otherwise suitable employment, because she would be permitted to smoke only in a designated area, was without good cause. (A.B. 379,924; [A-750-1984](#))

