

WAC 192-150-150 When is a separation considered a refusal of new work? (1) Section 3304 (a)(5) of the Federal Unemployment Tax Act and RCW 50.20.110 state that you cannot be denied benefits if you refuse to accept new work when the wages, hours, or other working conditions are substantially less favorable than those prevailing for similar work in your local labor market.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When you resign rather than accept changes in working conditions that are different from those under which you had been working, the department will decide whether you left work voluntarily or refused an offer of new work.

(a) If the changes in working conditions are not substantial, the department will consider you to have voluntarily quit work.

(b) If there is a substantial change in working conditions so as to constitute an offer of new work and the change is not authorized or implied by the original employment agreement, the department will treat the separation as a layoff due to lack of work and adjudicate the refusal of new work under RCW 50.20.080.

(i) If the change in working conditions is a reduction in your pay or hours of ten percent or less, the department will presume the change is not substantial. You can overcome this presumption by providing additional information to the department showing the job was not suitable under RCW 50.20.110.

(ii) If you continue working after your working conditions have changed, but later quit work because of these changes, the department will presume you voluntarily left work for personal reasons. This does not apply when:

(A) You give notice of your intent to quit but continue to work during an agreed upon notice period; or

(B) You continue working during an employer-provided grievance or arbitration period in response to the change in working conditions.

(iii) This subsection does not apply when the change in working conditions was caused by your own misconduct. The department will treat your refusal of the new working conditions as a separation from work under RCW 50.20.050 or 50.20.066.

(c) If the department decides you were separated due to a layoff but you refused an offer of new work, the department will issue a written decision even if you do not claim benefits for the week in which the refusal occurred. The employer offering the new work is an interested party to the work refusal decision.

(4) For purposes of this section, the following definitions apply:

(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.

(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. The department will decide if a wage rate is prevailing for your labor market area based on information provided by its labor market and economic analysis branch.

(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.

(d) "Substantial change in working conditions" means a material change that is significant in terms of amount, degree, or impact as opposed to a change that is relatively minor or trivial. A change in working conditions is not substantial if the conditions prevailing after the change are those generally prevailing for other workers performing the same or similar work in your local labor market area.

(e) "Substantially less favorable" means the work is materially reduced below the standard under which the majority of individuals in your occupation and local labor market area customarily work.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-150-150, filed 5/12/10, effective 6/12/10. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-150-150, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-150, filed 12/9/04, effective 1/9/05.]