

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSE T ELDRIDGE
Claimant

AVENTURE STAFFING & PROFESSIONAL
Employer

APPEAL 19A-UI-04812-CL-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/12/19
Claimant: Appellant (1)

Iowa Code § 96.5(3)a – Failure to Accept Work
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 7, 2019, (reference 02) unemployment insurance decision that denied benefits based upon a refusal of suitable of work. The parties were properly notified about the hearing. A telephone hearing was held on July 9, 2019. Claimant participated. Employer participated through human resource specialist Toni Holguin, employment specialist Blanca Struyk, and employment specialist Amber Vazquez. Employer's Exhibit 1 was received.

ISSUES:

Did claimant fail to accept a suitable offer of work and if so, was the failure to do so for a good cause reason?
Is the claimant able to work and available for work effective May 12, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On May 14, 2019, employer made an offer of work to claimant during an in-person conversation at its office in Sheldon, Iowa. Employer offered claimant two positions that were contingent on passing a pre-employment background check. Claimant declined these positions. Employer offered a third position performing assembly work at Silent Drive in Orange City, Iowa. The offer was for first shift and paid \$13.00 per hour. Claimant declined the position, stating he did not want to commute to Orange City from Sanborn and he thought the position would be too hard on his back. Claimant's average weekly wage is \$467.48. The offer was made during the first week of unemployment.

Claimant had previously worked for employer on a warehouse assignment and was able to pass the required physical. Claimant did not have any issue performing physical work that involved lifting more than 50 pounds and other repetitive physical movements. At the previous assignment claimant commuted from Sanborn to Spencer, which is similar in distance to the commute between Sanborn and Orange City.

REASONING AND CONCLUSIONS OF LAW:

Cases of “refusal of suitable work without good cause” are subject to a two-step analysis. A determination must be made regarding whether the work was suitable, and if it was, whether claimant has good cause for refusal. Iowa Admin. Code 871—24.24(3).

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. (1) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

If the offer was suitable, the claimant has the burden to establish the offer was refused for “good cause.” “Good cause for refusing work must involve circumstances which are real, substantial, and reasonable, not arbitrary, immaterial, or capricious.” *Norland v. IDJS*, 412 N.W.2d 904, 914 (Iowa 1987).

In this case, the offer of work was suitable as it did not pose any risks to claimant's health, safety, and morals. Claimant was physically able to perform the job. The commuting distance was similar to the previous assignment claimant performed for employer. The weekly wages of \$520.00 are higher than claimant's average weekly wage.

Because the offer was suitable, the burden shifts to claimant to show he had good cause for refusing the work. During the hearing, claimant asserted he declined the offer because of the required math skills. However, employment specialist Blanca Struyk credibly testified that math skills were not required for this assignment. At the time he declined the position, claimant told Struyk it was because of the commuting distance and because of back problems. Claimant denied either of these were issues at the time of the hearing, and pointed out that he drove a similar distance to the assignment in Spencer and was able to do heavy lifting on that job. Claimant failed to establish he declined the suitable offer of work for good cause.

DECISION:

The June 7, 2019, (reference 02) decision is affirmed. Claimant declined a suitable offer of work without good cause. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Christine A. Louis
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Decision Dated and Mailed

cal/scn