

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ADAM B KEENEY
Claimant

APPEAL 22A-UI-09474-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 02/20/20
Claimant: Respondent (4)

Iowa Code § 96.4(3) - Able and Available
Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

On April 14, 2022, QPS Employment Group Inc (employer/appellant) filed an appeal from the Iowa Workforce Development decision dated April 6, 2022 (reference 05) that allowed unemployment insurance benefits based on a finding that on March 17, 2022 no offer of work with employer was actually made.

After due notice was issued, a telephone conference hearing was held on May27, 2022. Adam Keeny (claimant/respondent) did not appear or participate. Employer participated through Unemployment Coordinator Jessica Segner. No exhibits were offered or admitted. Official notice was taken of the administrative record.

ISSUES:

Did claimant refuse to apply for or accept an offer of suitable work?

Is claimant able to and available for work?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

Employer is a temporary staffing agency. A representative for employer spoke with claimant on March 17, 2022. At that time claimant stated he was not looking for work. No job was specifically offered or refused.

Claimant filed a claim for benefits with an effective date of February 20, 2022. He filed weekly continued claims through the week ending March 19, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated April 6, 2022 (reference 05) that allowed unemployment insurance benefits based on a finding that on March 17, 2022 no offer of work with employer was actually made is MODIFIED in favor of appellant.

Iowa Code section 96.4 provides in relevant part:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. a. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3, are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code § 96.5(3)a provides:

An individual shall be disqualified for benefits:

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.

Because no job was specifically offered or refused, claimant is not disqualified due to failure to accept work. However, claimant is ineligible for benefits effective February 20, 2022 based on failing to establish his availability for work. It is claimant's burden to establish his availability for work. Claimant did not appear for the hearing to establish his availability for work and the evidence offered at hearing is that claimant was not searching for work during this timeframe. Benefits are therefore denied effective February 20, 2022.

DECISION:

The decision dated April 6, 2022 (reference 05) that allowed unemployment insurance benefits based on a finding that on March 17, 2022 no offer of work with employer was actually made is MODIFIED in favor of appellant. Claimant is not disqualified based on a failure to accept a suitable offer of work. However, benefits are denied effective February 20, 2022 based on claimant failing to establish his availability for work.



Andrew B. Duffelmeyer
Administrative Law Judge

June 1, 2022
Decision Dated and Mailed

abd/abd