

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**MERLE W IRVIN**  
Claimant

**APPEAL NO. 15A-UI-00618-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ANNA ENTERPRISES**  
Employer

**OC: 11/02/14**  
**Claimant: Respondent (2)**

Section 96.5(3)a – Refusal of Suitable Work  
Section 96.3(7) – Benefit Overpayment

**STATEMENT OF THE CASE:**

Staffing Solutions filed a timely appeal from a representative's decision dated January 8, 2015 (reference 02) which held claimant eligible to receive unemployment insurance benefits, finding that on December 16, 2014 the claimant did not accept an offer of work with the employer because the job offer did not provide wages of at least 100 percent of his average weekly wage. After due notice was provided, a telephone hearing was held on February 9, 2015. Although duly notified, the claimant did not respond to the notice of hearing and did not participate. The employer participated by Ms. Michella Rivers.

**ISSUE:**

At issue is whether the claimant refused an offer of suitable work.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Mr. Merle Irvin was most recently employed by Anna Enterprises d/b/a Staffing Solutions beginning on May 9, 2014 and ending on November 5, 2014. Mr. Irvin was assigned to work at short-term assignments and was paid \$10 per hour. After being separated from his most recent assignment through Staffing Solutions, Mr. Irvin filed a claim for unemployment insurance benefits with an effective date of November 2, 2014.

On December 16, 2014 Anna Enterprises d/b/a Staffing Solutions offered Mr. Irvin a production job at the rate of \$10.25 per hour.

Although the location of the job assignment was otherwise acceptable to Mr. Irvin, the claimant declined the offer of work for personal reasons.

## REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Irvin refused to accept an offer of suitable work from his former employer. It does.

Iowa Code § 96.5-3-b 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.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Iowa Admin. Code r. 871-24.24(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code § 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

The evidence in the record establishes that Anna Enterprises d/b/a Staffing Solutions made a bonafide offer of employment to Merle Irvin and that the claimant rejected the offer. The further employment offered by the employer was reasonably suitable and comparable to work the claimant had previously performed for the employer, and was within the purview of his usual occupation. The hourly wage offered was higher than the rate the claimant had received as an average weekly wage. The claimant had been unemployed for approximately five weeks at the time that the offer was made.

There being no evidence to the contrary, based upon evidence in the record and the application of the appropriate law, the administrative law judge concludes that Merle Irvin refused an offer of suitable employment from Anna Enterprises. Accordingly, he is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and providing that he is otherwise eligible.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. The administrative record reflects that the claimant has not been overpaid unemployment benefits because of a previous disqualification for voluntarily quitting employment.

**DECISION:**

The representative's decision dated January 8, 2015 (reference 02) is reversed. The claimant refused, without good cause, to accept an offer of suitable work with Anna Enterprises on December 16, 2014. The claimant is disqualified from receiving unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and he is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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