

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Michael A. Taylor refused an offer of work with Kelly Services, Inc. on August 24, 2005 because he was busy attending classes in preparation for the birth of his child who is due to arrive on October 9, 2005.

After declining the offer on August 24, 2005, Mr. Taylor accepted a subsequent offer. He has been discharged for failing a drug test.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge concerns the unemployment insurance consequences of Mr. Taylor's refusal of an offer of work on August 24, 2005. For the following reasons: The administrative law judge concludes that benefits must be withheld from the Sunday of the week in which the refusal occurred through October 8, 2005.

An individual who refuses an offer of work under circumstances which would render him or her unavailable for work is denied unemployment insurance benefits pursuant to Iowa Code section 96.4-3 rather than Iowa Code section 96.5-3. The effect of this rule is that the earnings requalification requirement is waived. The evidence in this record persuades the administrative law judge that Mr. Taylor should not receive benefits from August 21, 2005 through Saturday, October 8, 2005 because he is unavailable for work due to preparing for the birth of his child.

The employer's evidence included the statement that Mr. Taylor has been discharged because of a failed drug test. Since Mr. Taylor did not participate in the hearing, the administrative law judge was unable to take additional testimony and issue a ruling on the separation. Therefore, the issue must be remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated September 9, 2005, reference 08, is modified. The claimant is ineligible for unemployment insurance benefits from August 21, 2005 through October 8, 2005. He is eligible to receive unemployment insurance benefits thereafter, provided he is otherwise eligible. The issue of the claimant's discharge must be remanded to the Unemployment Insurance Services Division.

dj/kjw