

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

BRADLEY L BENSON
3012 HIGH ST
DES MOINES IA 50312

JACOBSON INDUSTRIAL SERVICES
1321 E EUCLID AVE
DES MOINES IA 50316

Appeal Number: 06A-UI-01975-AT
OC: 08/28/05 R: 02
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Jacobson Industrial Services filed a timely appeal from an unemployment insurance decision dated February 9, 2006, reference 02, which allowed benefits to Bradley L. Benson upon a finding that the offer of work he refused on January 6, 2006, was unsuitable. After due notice was issued, a telephone hearing was held February 27, 2006, with Mr. Benson participating. Account Manager Liz Jerome participated for the employer. This matter is considered on a consolidated record with 06A-UI-01976-AT.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: On January 5, 2006, Jacobson Industrial Services offered employment to Bradley L. Benson that paid \$9.56 per hour. He declined the offer. It offered him work again on January 6, 2006, for \$9.00 per hour. Mr. Benson again declined the offer.

Mr. Benson had been unemployed for less than a week. The average weekly wage in the highest quarter of his base period is \$533.01. Expressed as an hourly wage, it is \$13.32525 per hour.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Mr. Benson declined suitable offers of work. It does not.

Iowa Code section 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. 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:

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

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

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

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

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

The evidence in this record establishes that both job offers fell below the required wage level for individuals in their first five weeks of unemployment. Under the circumstances, the offers were unsuitable as a matter of law. No disqualification may be imposed.

DECISION:

The unemployment insurance decision dated February 9, 2006, reference 02, is affirmed. The claimant is entitled to receive unemployment benefits, provided he is otherwise eligible.

cs/kjw