

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMIE A MILLER**  
Claimant

**APPEAL NO: 14A-UI-01531-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC**  
Employer

**OC: 12/01/13**

**Claimant: Respondent (1)**

Section 96.5-3-a – Work Refusal

**STATEMENT OF THE CASE:**

L A Leasing, Inc. (employer) appealed a representative's February 5, 2014 decision (reference 01) that concluded Jamie A. Miller (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 11, 2014. The claimant participated in the hearing. Colleen McGuinty appeared on the employer's behalf and presented testimony from one other witness, Kelly Weaver. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is the claimant disqualified due to refusing an offer of suitable work?

**FINDINGS OF FACT:**

The employer is a temporary employment firm. The claimant began taking assignments with the employer on October 25, 2012. His most recent assignment began on November 25, 2012 and ended on March 4, 2013.

After working for another employer, the claimant's hours began to be reduced for seasonal reasons in December 2013. As a result the claimant established an unemployment insurance benefit year effective December 1, 2013. He most recently worked shortly before Christmas, but expects to be called back by the end of March 2014. He might also be recalled for short-term work in the interim.

On January 17, 2014 the employer's Clinton, Iowa account manager, Weaver, placed a call to the claimant. She asked if he was seeking work; he indicated he was then not seeking work as he was on layoff and expected he would be recalled. The testimony then varies as to whether or not Weaver gave the claimant the details of an offer of work; for purposes of this decision it is assumed that Weaver did indicate that there was work available at a DeWitt, Iowa employer as a laborer on the first shift at a rate of \$9.25 per hour. The claimant did not pursue assignment with the employer because of his layoff status with his more recent employer.

## REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is disqualified for refused a suitable offer of work.

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. 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.

Iowa Code § 96.4-3 provides:

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

3. 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 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, 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 § 96.19-38-c defines temporary unemployment as follows:

An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

At least at the time the presumed offer of work was made on January 17, 2014 the claimant was temporarily unemployed and was not required to accept a suitable offer of work from another employer.

**DECISION:**

The representative's February 5, 2014 decision (reference 01) is affirmed. The claimant is not disqualified for refusing a suitable offer of work. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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