

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARL G SINCLAIR
Claimant

APPEAL NO. 12A-UI-08895-H

**ADMINISTRATIVE LAW JUDGE
DECISION**

LITTLE MIRACLES CHILDREN'S CENTER
Employer

OC: 05/20/12
Claimant: Appellant (1)

Section 96.5-3 – Refusal of Work

STATEMENT OF THE CASE:

The claimant, Carl Sinclair, filed an appeal from a decision dated July 18, 2012, reference 02. The decision disqualified the claimant from receiving unemployment benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, on September 11, 2012. The claimant participated on his own behalf and was represented by Iowa Legal Aid in the person of Joshua Gaul. The employer, Little Miracles Children's Center, participated by Vice President Larry Collins.

ISSUE:

The issue is whether the claimant refused an offer of available, suitable work.

FINDINGS OF FACT:

Carl Sinclair was employed by Little Miracles beginning November 12, 2001, as a part-time bus driver and maintenance person. His last day of work was May 14, 2012, and he filed a claim for unemployment benefits effective May 20, 2012.

On June 21, 2012, Vice President Larry Collins sent a certified letter to Mr. Sinclair offering him work to begin on June 25, 2012. Mr. Sinclair knew the letter was sent to him and who had sent it. He refused to accept delivery of the certified letter because he thought that it was from Mr. Collins "harassing" him for some reason. He admitted that if he had accepted the letter, he would have accepted the job.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.24(1)a provides:

- (1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The claimant knew he had a certified letter from Little Miracles Children's Center but willfully and deliberately refused to accept it. The above administrative code requires the employer to send a certified letter, but if the claimant refuses to accept it, knowing it was from the previous employer, that is not within the control of the employer. Mr. Sinclair must be considered to have willfully and deliberately refused to accept the letter, and this is a refusal of an offer of work without good cause. The claimant is disqualified.

DECISION:

The representative's decision of July 18, 2012, reference 02, is affirmed. Carl Sinclair is disqualified from receiving unemployment benefits until he has requalified by earning ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw