

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAMAR E WILDER
Claimant

APPEAL NO. 06A-UI-09657-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING
Employer

OC: 09/18/05 R: 03
Claimant: Respondent (1-R)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

USA Staffing filed an appeal from a representative's decision dated September 27, 2006, reference 10, which held that no disqualification would be imposed regarding Kamar Wilder's August 23, 2006 refusal of work. After due notice was issued, a hearing was held by telephone on October 16, 2006. Mr. Wilder participated personally. The employer participated by Doug Meinders, Branch Manager, and Ami Merkle, Employment Coordinator.

ISSUE:

At issue in this matter is whether any disqualification should be imposed as a result of Mr. Wilder's refusal of work with USA Staffing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Wilder previously performed services through USA Staffing, a temporary placement firm. On August 23, 2006, he was contacted by telephone and offered a temporary assignment with Blackhawk Waste. The assignment was for one or two days, possibly longer depending on the needs of the company and the work abilities of the individual hired. It paid \$8.50 per hour for an eight-hour day. Mr. Wilder declined the job because it paid less than the wage he had indicated he would accept.

Mr. Wilder filed an original claim for job insurance benefits effective September 18, 2005. He filed an additional claim effective August 6, 2006. The average weekly wage paid to him during that quarter of his base period in which his wages were highest was \$702.71.

During the week of August 20, 2006, Mr. Wilder accepted employment with a different employer. He did not begin the new job until September 11, 2006. He did not continue to seek work after accepting the offer. He claimed job insurance benefits for the weeks ending August 26, September 2, and September 9, 2006.

REASONING AND CONCLUSIONS OF LAW:

Mr. Wilder declined an offer of work from USA Staffing on August 23, 2006. An individual is disqualified from receiving job insurance benefits if he has refused an offer of suitable work without good cause. Iowa Code section 96.5(3)a. The administrative law judge must determine if the work offered on August 23 constituted suitable work within the meaning of the law. The work must offer wages of a specified amount, which depends on the number of weeks the individual has been unemployed. The number of weeks of unemployment is determined in relation to the most recent new or additional claim for benefits.

Mr. Wilder filed an additional claim effective August 6, 2006. Therefore, the work offered on August 23 was during his third week of unemployment. As such, the job had to pay at least 100 percent of the average weekly wage paid to him during that quarter of his base period in which his wages were highest. Section 96.5(3)a. In other words, the job had to pay at least \$702.71 in order to be considered suitable work. The work offered on August 23 was not for a full week. Even assuming it was for a full week, the wages would only amount to \$340.00 (\$8.50/hr x 40 hours). As such, it was not suitable work within the meaning of the law and no disqualification may be imposed for the refusal.

Mr. Wilder's testimony during the hearing raised the issue of his availability for work for the period beginning August 20, 2006. The issue of his availability was noted on the notice of hearing. However, the issue was in relation to his refusal of work. Inasmuch as the decision appealed by USA Staffing was one concerning a refusal of work, the hearing notice was not sufficient to put Mr. Wilder on notice that his availability while waiting to go to work for a new employer was at issue. This matter shall be remanded to Claims for a determination as to whether Mr. Wilder was available for work within the meaning of the law, given his sworn testimony that he did not continue to seek work while waiting to go to work for a new employer. See 871 IAC 24.23(20).

DECISION:

The representative's decision dated September 27, 2006, reference 10, is hereby affirmed. No disqualification is imposed as a result of Mr. Wilder's August 23, 2006 refusal of work, as the work was not suitable work within the meaning of the law. Benefits are allowed, provided he satisfies all other conditions of eligibility. This matter is remanded to Claims for a determination regarding Mr. Wilder's availability for the period beginning August 20, 2006,

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw