

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KEVIN M KARTEL
Claimant

L A LEASING INC
Employer

APPEAL 17A-UI-05044-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/29/17
Claimant: Respondent (1)**

Iowa Code § 96.5(3)a – Failure to Accept Work/Work Refusal
871 IAC 24.24(14)(b) – Suitable Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 8, 2017, (reference 02) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on May 30, 2017. The claimant participated personally. The employer participated through unemployment benefits administrator Colleen McGuinty. Diane Ungs, branch manager, also testified for the employer. Claimant Exhibits A and B were admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant refused a suitable offer of work as a materials handler on April 12, 2017.

FINDINGS OF FACT:

The claimant previously worked for the employer as a laborer/assembler, earning \$12.50 per hour, from March 23, 2017 until March 27, 2017, when the assignment ended.

The employer made an offer of work to the claimant April 12, 2017, during a personal phone call with the claimant and Michelle Goedken. That offer included the following terms: A full-time position, as a materials handler working first shift beginning April 17, 2017, earning \$12.00 per hour for 40 hours per week (Claimant exhibit A). At first, Ms. Goedken reported the pay would be \$14.50 but it was an error. The claimant had not previously worked as a materials handler, which included learning to operate a forklift. The claimant originally accepted the offer when Ms. Goedken told him it was \$14.50 but then subsequently declined when the offer was confirmed as \$12.00 per hour.

The claimant's average weekly wage is \$676.50. The offer was made in the eleventh week of unemployment. Consequently, the wage offered must equal or exceed seventy-five percent of his average weekly wage. Seventy-five percent of the claimant's weekly wage is \$507.67. The

wage offered in this case was \$12 per hour or \$480.00 per week, thus not meeting the wage requirement.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not refuse 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. (1) 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:
- b.
- (a) One hundred percent, if the work is offered during the first five weeks of unemployment.
 - (b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.
 - (c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.
 - (d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.
- (2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

In this case, the offer made to the claimant as a materials handler was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Since the offer was not suitable, benefits are allowed.

DECISION:

The May 8, 2017 (reference 02), decision is affirmed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided he is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn