

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**EDICSON M ARTEAGA ALVARADO**  
Claimant

**SUPREME STAFFING INC**  
Employer

**APPEAL 20A-UI-07818-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Respondent (1)**

Iowa Code § 96.5-3-a – Refusal to Accept Suitable Work  
Iowa Code § 96.4(3) – Able and Available  
871 IAC 24.24(15)i – Suitable Work

**STATEMENT OF THE CASE:**

Supreme Staffing (employer) appealed a representative's July 10, 2020, decision (reference 05) that concluded Edicson Arteaga Alvarado (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 17, 2020. The claimant did not provide a telephone number and, therefore, did not participate in the hearing. The employer participated by Mike Riehl, Office Manager. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issue is whether the claimant refused suitable work and whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary agency. The claimant was assigned by the employer to work for Lineage Logistics as a full-time general laborer from November 12, 2019, through April 21, 2020.

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 19, 2020. The claimant's highest quarter of wages during his base period was the third quarter of 2019, during which his wages totaled \$18,183.00. The claimant's average weekly wage during his highest quarter of wages was, therefore, \$999.99.

On April 21, 2020, the employer's office manager verbally offered the claimant a job. The job was for full-time work of 40 hours per week and the rate of pay was \$11.00 per hour or \$440.00 per week in wages. The claimant told the employer he was taking a Commercial Drivers' License test that day and had a doctor's appointment for the test the following week. The

claimant might be interested in the job on April 29, 2020. The employer did not have any work that would pay the claimant \$999.99 per week.

### **REASONING AND CONCLUSIONS OF LAW:**

Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4). The claimant was taking a test for a CDL and going to a doctor's appointment. Getting a license and going to a doctor's appointment do not make a person unable to work or unavailable for work. The claimant was able and available for work.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

(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.

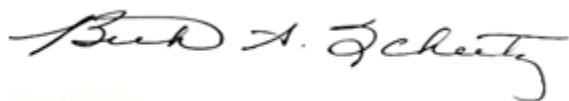
(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

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

The work was offered within one week of the claimant's unemployment and was required to provide the claimant wages 100-percent of those paid to the claimant during the highest quarter of his base period. The evidence fails to establish that the claimant would have received at least 100-percent of his average weekly wages during his highest quarter of earnings. Based on the factors found in Iowa Code Section 96.5-3-a, the work offered to the claimant was not suitable work. The claimant is not disqualified from receiving unemployment insurance benefits.

**DECISION:**

The representative's July 10, 2020, decision (reference 05) is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.



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Beth A. Scheetz  
Administrative Law Judge

August 21, 2020  
Decision Dated and Mailed

bas/mh