

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA M HEATH
Claimant

APPEAL NO. 11A-UI-07659-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WALL SYSTEMS INC
RMK JR INC
Employer

OC: 02/20/11
Claimant: Respondent (1)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Iowa Wall Systems (employer) appealed a representative's June 8, 2011 decision (reference 01) that concluded Joshua Heath (claimant) was eligible to receive unemployment insurance benefits because there was no offer of work. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for October 12, 2011, in Waterloo, Iowa. The claimant participated personally. The employer participated by Ron Knudsvig, Owner, and Augie Ferguson, Manager

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 18, 2008, as a full-time taper. The claimant was laid off on February 16, 2011 due to lack of work. He filed his claim for unemployment insurance benefits on February 20, 2011.

On May 13 and 16, 2011, the manager left a message on the claimant's telephone asking him to come into the office, return his tools and talk to the employer. The claimant had been out of town and received only one of the messages on May 17, 2011.

Within an hour of receiving the message, the owner appeared at the claimant's house. The owner told the claimant that the manager had been trying to get in touch with the claimant. He asked the claimant if he was quitting. The claimant shrugged. The owner said that the manager had work and the claimant should get in touch with the manager. The owner told the claimant he had no problem with the claimant but he wanted his tools back.

The claimant understood the manager's message and the owner's visit to indicate that he was to return his tools because he was terminated. The claimant was unaware that the employer was offering him work.

The claimant started a new job at Sears on or about September 1, 2011. He stopped filing for unemployment insurance benefits at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant did not refuse an offer of suitable work.

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.

In this case it appears there was a lack of communication between the employer and the claimant. The employer meant to offer the claimant work but did not communicate that fact to the claimant. The employer told the claimant to talk to the manager regarding a job but no offer of work was made to the claimant. The claimant is qualified to receive benefits because no offer of suitable work was made to the claimant.

DECISION:

The representative's June 8, 2011 decision (reference 01) is affirmed. The claimant is qualified to receive benefits so long as he is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css