

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COREY R GUYER
Claimant

APPEAL NO. 08A-UI-04524-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MUELLER CONCRETE CONST CO
Employer

**OC: 12-23-07 R: 04
Claimant: Appellant (1)**

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 2, 2008, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on May 27, 2008. The claimant did participate. The employer did participate through Betty Mueller, CFO. Employer's Exhibit One was received.

ISSUE:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was laid off from March 24, 2008 through March 28 while company supervisors were at training. The claimant was to return to work on March 31, 2008. On March 31 the claimant called in and reported that he needed a day off to move some of his belongings. The claimant was granted the day off. The claimant knew he was to return to work on April 1, 2008. On April 1 the claimant did not call in to report his absence nor did claimant show up for work. Ms. Mueller left a message on the claimant's cell phone asking that he call her back. The claimant did not call Ms. Mueller back. Ms. Mueller left a message indicating that the claimant should return his uniforms as he did not return back to work when recalled to do so. The claimant was being called back to the same position he had done previously.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did 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. 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.

The offer was suitable as it did meet the minimum wage requirements. The claimant knew that his layoff was only for one week and that he was to return to his same job with the same hours and rate of pay after the one-week layoff. The claimant was granted permission to miss work on March 31, 2008 but knew that he was to return to work on April 1. The claimant did not have a good-cause reason for the refusal or his failure to show up for work on April 1, 2008. Benefits are denied.

DECISION:

The May 2, 2008, reference 04, decision is affirmed. Claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs