

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MONTE W ROBINSON JR
Claimant

QPS EMPLOYMENT GROUP INC
Employer

APPEAL 22A-UI-02651-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/23/20
Claimant: Respondent (2R)

Iowa Code § 96.5(3)a – Failure to Accept Work
Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.24(5)i – Suitable Work

STATEMENT OF THE CASE:

QPS Employment Group, Inc., the employer/appellant, filed an appeal from the January 3, 2022 (reference 04) unemployment insurance decision that allowed benefits because the pay in the employer's offer of work was too low given the length of time Mr. Robinson, Jr had been unemployed. The parties were properly notified about the hearing. A telephone hearing was held on March 14, 2022. The employer participated through Jessica Stegner, unemployment coordinator. Mr. Robinson Jr did not participate in the hearing. The administrative law judge took official notice of the administrative record. Employer's Exhibit 1 was admitted as evidence.

ISSUE:

Was a suitable offer of work made to Mr. Robinson, Jr?
If so, did he fail to accept it and was the failure to do so for a good cause reason?
Is Mr. Robinson, Jr able to and available for work?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Robinson Jr began working for the employer on August 26, 2019. Mr. Robinson Jr last worked for the employer beginning March 16, 2020 on assignment to Wilton Precision Steel Company. Mr. Robinson Jr was paid \$13.75 per hour. He was laid off on March 18, 2020. Mr. Robinson Jr asked for additional work when he was laid off.

On May 29, 2020, the employer contacted Mr. Robinson Jr about a new work assignment. The employer offered Mr. Robinson Jr a job as a second-shift material handler at a pay rate of \$10.00 per hour plus an additional \$2.00 per hour for good attendance. Mr. Robinson Jr accepted the offer. On June 2, 4 and 7, the employer and Mr. Robinson Jr discussed his start date, and agreed on a start date of June 9. Mr. Robinson Jr was a No-Call/No-Show on June 9. Mr. Robinson Jr never contacted the employer again.

The issue of Mr. Robinson Jr's separation from employment with this employer has not been investigated by Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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.

Iowa Admin. Code r. 871-24.24(15)i provides:

(15) *Suitable work*. In determining what constitutes suitable work, the department shall consider, among other relevant factors, the following:

i. Whether the work offered meets the percentage criteria established for suitable work which is determined by the number of weeks which have elapsed following the effective date of the most recent new or additional claim for benefits filed by the individual.

In this case, the employer made an offer of work to Mr. Robinson Jr, and he accepted it. A person may accept any offer made to them, whether suitable or not. Since Mr. Robinson Jr accepted the employer's offer, he is not eligible for benefits. Benefits are denied as of May 29, 2020.

DECISION:

The January 3, 2022, (reference 04) unemployment insurance decision is REVERSED. The employer made an offer of work on May 29, 2020, and Mr. Robinson Jr accepted the offer. Benefits are denied as of May 29, 2020.

REMAND:

The issue of Mr. Robinson Jr's separation from employment with this employer is remanded (sent back) to the Benefits Bureau of Iowa Workforce Development for investigation and a decision.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 28, 2022

Decision Dated and Mailed

dz/abd