

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID E STRAUSE
Claimant

APPEAL NO. 19A-UI-07662-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

OC: 08/25/19
Claimant: Respondent (1)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated September 20, 2019, reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on October 21, 2019. Employer participated by Gretchen Goetting. Claimant failed to respond to the hearing notice and did not participate. Employer's Exhibits 1-2 were admitted into evidence

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant refused to accept a suitable offer of work?

FINDINGS OF FACT:

The claimant worked for Per Mar, full time during day hours for nearly seven years. Claimant's last day of work was said to be August 23, 2019 although employer's documents submitted into evidence indicate claimant worked until at least August 28, 2019. (See Ex. 2). Claimant was placed at GPC and worked as a security guard for an extended period. At some unknown time, claimant allegedly let a vehicle into a gated area that did not have approval. The vehicle then ran into an employee of GPC. GPC asked that claimant be removed from this placement.

Subsequent to claimant's removal, employer offered claimant a part-time weekend evening position. Claimant declined this offer as he'd worked full-time day shifts for a number of years. On or around September 10, 2019 claimant was offered a different full-time security shift 13 miles away working a different shift than he'd worked for years. Claimant did not return this call from employer and was removed from employer's system.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not offered full-time work at the same wages and hours he'd been receiving. Claimant became totally unemployed when employer was unable to offer claimant ongoing employment at the same hours and wages he'd worked for many years. As the claimant's dismissal was from a particular placement and not from the employer in general, claimant remained able and available to work at the same hours and wages he'd previously worked for years. Employer attempted to change claimant's contract by requesting different hours of work, and claimant's refusal to work the different hours does not disqualify him from benefits.

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 Admin. Code r. 871-24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

DECISION:

The September 20, 2019, reference 01, decision is affirmed as to claimant not receiving a reasonable offer of work after being removed from the previous placement, but not his employment. Claimant is found to be able and available to work at the same hours and wages as previously held. Benefits are allowed, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn