

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANK CHAVIS

Claimant

APPEAL NO: 15A-UI-01710-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

INNKEEPER HOSPITALITY SERVICES

Employer

OC: 01/11/15

Claimant: Respondent (1-R)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 28, 2015, reference 04, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 9, 2015. The claimant did not respond to the hearing notice by providing a phone number where he could be reached at the date and time of the hearing as evidenced by the absence of his name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The claimant did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Kori Eller, Human Resources, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The claimant was hired as a part-time dishwasher for Innkeeper Hospitality Services December 6, 2013, and was considered to have quit his job December 22, 2013, after accumulating three no-call no-show absences.

When the employer received the claimant's notice of claim it accidentally checked the incorrect box on the form and stated the claimant refused to accept an offer of suitable work. The claimant did not have a valid claim for unemployment insurance benefits at the time and no offer of work was actually made to the claimant after his separation from employment with this employer December 22, 2014.

An initial determination and adjudication regarding the claimant's separation from this employer has not yet occurred. Consequently, that issue is remanded to the claims section for an initial determination and adjudication.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Admin. Code r. 871-24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The administrative law judge does not have jurisdiction to evaluate the offer or refusal of work since the offer of employment took place outside of the benefit year. Benefits are allowed.

The issue of the claimant's separation from employment with this employer has not yet been adjudicated by the claims section of Iowa Workforce Development. Therefore, the issue of the claimant's separation from employment with Innkeeper Hospitality Services is remanded to the claims section for an initial determination and adjudication.

DECISION:

The January 28, 2015, reference 04, decision is affirmed. The claimant did not refuse a suitable offer of work because no offer was made. Benefits are allowed, provided the claimant is otherwise eligible. The issue of the claimant's separation from employment with Innkeeper Hospitality Services is remanded to the claims section for an initial determination and adjudication.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs