

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARWAN H SAADIQ**  
Claimant

**APPEAL NO. 16A-UI-05574-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KAYJAY LLC**  
Employer

**OC: 05/01/16**  
**Claimant: Appellant (1)**

Section 96.5-3-a – Work Refusal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 13, 2016, reference 01, which held claimant ineligible for unemployment insurance benefits due to a refusal to accept work. After due notice, a telephone conference hearing was scheduled for and held on June 3, 2016. Claimant participated personally. Employer participated by Bradley Weigandt.

**ISSUE:**

The issue in this matter is whether claimant refused to accept a suitable offer of work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Employer made a continuing offer of work to the claimant on April 19, 2016. The offer of work stayed open until claimant filed for unemployment on May 1, 2016. At that time employer realized that claimant had chosen unemployment rather than acceptance of the offer. That offer included the following terms: Claimant would be reduced from full-time to part-time hours working in sales. Claimant's monthly wages would be reduced from approximately \$2,164.00 to \$400.00. The offer was made prior to claimant's unemployment but did continue until his first week of unemployment. Claimant refused the offer of work because of the reduced wages and hours.

Employer additionally holds a job at Lowe's. Claimant was informed that he could apply for a job at Lowe's at or around \$10.00 an hour.

At all times pertinent, claimant has remained able and available for work.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code § 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 § 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) 100 percent, if the work is offered during the first five weeks of unemployment.
- (2) 75 percent, if the work is offered during the sixth through the twelfth week of unemployment.
- (3) 70 percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.
- (4) 65 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.

Iowa Admin. Code r. 871-24.24(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.

As the bona fide offer of work was for one quarter of the wages that claimant had been working, the claimant's refusal of that offer is not disqualifying for claimant's receipt of unemployment benefits. The suggestion that claimant apply for a job at Lowe's was not a bona fide offer of work, and is also not disqualifying. Claimant remained at all times able and available for work.

**DECISION:**

The decision of the representative dated May 13, 2016, reference 01 is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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