

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KEITH L WALKER**  
Claimant

**WEST LIBERTY FOODS LLC**  
Employer

**APPEAL 16A-UI-13490-DL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/30/16**  
**Claimant: Respondent (2)**

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Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The employer filed an appeal from the December 13, 2016, (reference 05) unemployment insurance decision that allowed benefits based upon refusing an offer of work. After due notice was issued, a telephone conference hearing was held on January 12, 2017. Claimant did not respond to the hearing notice instruction and did not participate. Employer participated through human resources manager Monica Dyer.

**ISSUES:**

Was a suitable offer of work made to the claimant?  
If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant via telephone and letter on November 9, 2016. That offer included the following terms: first shift as requested as a boxer involving lighter duty work than claimant held before, and at a higher rate of pay. The wage offered for the job is \$12.12, which is comparable to the prevailing rate of pay for similar work in the eastern Iowa area. Claimant's average weekly wage is \$366.05. The offer was made in the second week of unemployment. He was scheduled to begin work on November 21 but was a no-call/no-show. He had been medically released and passed the pre-employment physical exam.

Claimant claimed and received unemployment insurance benefits during the two week-ending November 12, 2016. Since no benefits were claimed after or paid thereafter, no overpayment is established.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant failed to accept a suitable offer of work.

Iowa Code section 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. (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.

The offer was suitable and claimant did not have a good cause reason for the failure to accept the work.

**DECISION:**

The December 13, 2016, (reference 05) unemployment insurance decision is reversed. Claimant failed to accept a suitable offer of work. Benefits are withheld effective November 20, 2016, 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. Since no benefits were claimed after or paid after the offered work was to begin, no overpayment is established.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs