

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARKUS M FORD
Claimant

APPEAL NO. 09A-UI-14932-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFFING PROFESSIONALS LLC
Employer

OC: 08/30/09
Claimant: Appellant (1)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Markus Ford filed a timely appeal from a representative's decision dated September 29, 2009, reference 02, which held him not eligible to receive unemployment insurance benefits finding that on September 14, 2009 the claimant refused an offer of suitable work. After due notice, a telephone hearing was scheduled for and held on November 4, 2009. Mr. Ford participated personally. The employer participated by Ann Potratz and Ashley Leyden.

ISSUE:

The issue is whether the evidence in the record establishes the claimant refused to accept an offer of suitable work from a former employer.

FINDINGS OF FACT:

Markus Ford was employed by Staffing Professionals from August 8, 2008 until August 28, 2009. The claimant's last assignment was with Excel Marketing performing ongoing warehouse work at the rate of \$10.00 per hour. On September 14, 2009, the claimant was offered an ongoing position at a Pasta-Pros facility. Mr. Ford declined the long-term assignment because of "the cold" and because he did not wish to use public transportation. The claimant had no objection to the hourly rate offered for the new position.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Ford refused to accept an offer of suitable work from his former employer.

Iowa Code section 96.5-3-b 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.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

The evidence in the record establishes that Staffing Professionals LLC made a bona fide offer of employment to Markus Ford and that Mr. Ford rejected the offer. The further employment offered by the employer was reasonably suitable and comparable to work he had previously performed for the employer. The offered employment was also within the purview of his usual type of occupations. The wages, hours and other conditions of the offer were not substantially less favorable to the claimant than conditions prevailing for similar work in the locality.

Based upon the evidence in the record and the application of the appropriate law, the administrative law judge concludes that Mr. Ford refused an offer of suitable employment from Staffing Professionals LLC. Accordingly he is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount providing that he is otherwise eligible.

DECISION:

The Agency representative's decision dated September 29, 2009, reference 02, is affirmed. The claimant refused an offer of suitable work from Staffing Professionals. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, providing that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css