

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES L GEORGE
Claimant

APPEAL NO. 12A-UI-05547-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LYNCH LIVESTOCK INC
Employer

**OC: 04/01/12
Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Lynch Livestock, filed an appeal from a decision dated May 2, 2012, reference 02. The decision allowed benefits to the claimant, James George. After due notice was issued a hearing was held by telephone conference call on June 5, 2012. The claimant participated on his own behalf. The employer participated by Human Resources Director Lori Thompson and COO Paul Strayer.

ISSUE:

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

FINDINGS OF FACT:

James George was offered a job as a truck driver on March 12, 2012, by COO Paul Strayer. The claimant filed for unemployment benefits effective April 1, 2012. At the time of the job offer he did not have an open claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

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. 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) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five 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.

871 IAC 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.

The offer of work made to the claimant, and his refusal, was prior to the effective date of his unemployment claim. Under the provisions of the above Administrative Code section, this is not a disqualifying refusal.

DECISION:

The representative's decision of May 2, 2012, reference 02, is affirmed. James George is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs