

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TORY D WEBB
Claimant

APPEAL NO. 12A-UI-08033-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ANNA ENTERPRISES
STAFFING SOLUTIONS**
Employer

**OC: 06/03/12
Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Staffing Solutions, filed an appeal from a decision dated June 26, 2012, reference 02. The decision allowed benefits to the claimant, Tory Webb. After due notice was issued, a hearing was held by telephone conference call on July 30, 2012. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Manager Bill Van Sloun.

ISSUE:

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

FINDINGS OF FACT:

Tory Webb began working for Staffing Solutions on August 3, 2011. He completed one assignment on August 4, 2011, and was offered other employment by the temporary coordinator Kate Druivenga, on August 9, 2011. He was to start work at Maurice's distribution center August 10, 2011, at 7:00 a.m., but he was no-call/no-show to work.

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(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 claimant was offered a job which he elected, ultimately, not to accept. This was in August 2011 and he did not file a claim for benefits until June 3, 2012. Under the provisions of the above Administrative Code section, the refusal of work was made when there was no valid claim for benefits in effect and it is not a disqualifying event.

DECISION:

The representative's decision of June 26, 2012, reference 02, is affirmed. Tory Webb is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw