

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SEAN J SCHAFBUCH
Claimant

APPEAL NO. 14A-UI-10377-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARDSCAPE SOLUTIONS OF IOWA INC
Employer

OC: 01/05/14
Claimant: Appellant (1)

Iowa Code Section 96.5(3) – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 23, 2014, reference 03, decision that allowed benefits to the claimant, provided he was otherwise eligible, based on an Agency conclusion that the employer had not made an offer for work to the claimant on May 7, 2014. After due notice was issued, a hearing was held on October 23, 2014. Claimant Sean Schafbuch participated. Nate Andrews, Vice President, represented the employer. Exhibits One and Two were received into evidence. The administrative law judge took official notice of the Agency's administrative record of wages reported by the claimant and benefits disbursed to the claimant. The administrative law judge took official notice of the August 22, 2014, reference 01, decision and the August 27, 2014, reference 02, decision.

ISSUE:

Whether the claimant refused an offer of suitable work on or about May 7, 2014 without good cause and at a time when he had an active claim for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Sean Schafbuch was employed by Hardscape Solutions of Iowa, Inc. as a seasonal laborer and last performed snow removal work for the employer in December 2013 or January 2014. Mr. Schafbuch established a claim for unemployment insurance benefits that was effective January 5, 2014 in response to being laid by the employer. On March 18, 2014 Mr. Schafbuch participated in a half-day training required by the employer. Mr. Schafbuch has not otherwise performed any work for the employer since around the turn of the year.

On August 22, 2014 an Iowa Workforce Development claims deputy entered a reference 01 decision that allowed benefits to the claimant, provided he was otherwise eligible, and that held the employer's account could be charged for benefits; based on an Agency conclusion that the employer had filed an untimely protest. The decision referenced a May 7, 2014 separation from the employment. On August 27, 2014 an Iowa Workforce Development Claims Deputy entered a reference 02 decision that amended the reference 01 decision. The reference 02 decision allowed benefits to Mr. Schafbuch, provided he was otherwise eligible, and indicated that the Hardscape Solutions would not be charged for benefits paid to the claimant. The reference 02

decision indicated that Mr. Schafbuch had earned ten times his weekly unemployment insurance benefit amount from insured work, after a disqualifying separation from the employer. The decision further indicated that the employer would receive no additional charges in relation to the claim for any weeks after the separation and that "all remaining wage credits earned from October 1, 2012 until May 7, 2014 will be charged to the unemployment compensation fund." Neither party appealed from the reference 01 or reference 02 decisions. The reference 02 decision became a final Agency decision that was binding upon the parties.

The September 23, 2014, reference 03, decision that the employer has appealed in this matter does not concern the *separation* from the employment, which was already adjudicated in the reference 01 and 02 decisions, but instead concerns the question of whether Mr. Schafbuch *refused an offer of suitable work* on May 7, 2014. Mr. Schafbuch had received \$408 in weekly benefits for each of the weeks during the period of January 5, 2014 through May 3, 2014. Mr. Schafbuch had then discontinued his claim for benefits. Mr. Schafbuch did not renew his claim for benefits until the week that started June 1, 2014. At the time of the alleged work refusal on May 7, 2014 Mr. Schafbuch did not have an active claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

A claimant who fails to accept an offer of suitable employment without good cause is disqualified for benefits until the claimant earns ten times his weekly benefit amount from insured work. See Iowa Code section 96.5(3)(a).

Before the work refusal disqualification in Iowa Code section 96.5(3) can have any impact on a claimant's claim for benefits, the evidence must demonstrate that the offer and the alleged refusal each occurred at a time when a claimant had an active claim for benefits. See Iowa Administrative Code rule 871-24.24(8). The alleged refusal in this matter occurred on May 7, 2014 at a time when Mr. Schafbuch did not have an active claim for benefits. Accordingly, the alleged refusal would not disqualify Mr. Schafbuch for benefits. Mr. Schafbuch remains eligible for benefits, provided he meets all eligibility requirements. The employer's liability for benefits has been previously adjudicated in the reference 01 and reference 02 decisions and that adjudication is not altered by the present decision.

DECISION:

The September 23, 2014, reference 03, decision is affirmed. The alleged offer and alleged work refusal on or about May 7, 2014 occurred at a time when the claimant did not have an active claim for benefits and would not disqualify him for benefits. The claimant is eligible for benefits, provided he meets all other eligibility requirements. The employer's liability for benefits has been previously adjudicated in the reference 01 and reference 02 decisions and that adjudication is not altered by the present decision.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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