

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM D DAVIS
Claimant

APPEAL NO. 09A-UI-06439-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF BONAPARTE
Employer

**Original Claim: 03/15/09
Claimant: Respondent (1)**

Section 96.5-3-a - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated April 14, 2009, reference 02, that concluded the claimant was not subject to disqualification for refusing work. A telephone hearing was held on May 26, 2009. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Constance Meek participated in the hearing on behalf of the employer. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant filed for unemployment insurance benefits effective March 15, 2009. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

Did the claimant fail to accept an offer of suitable work without good cause?

FINDINGS OF FACT:

The claimant worked part-time as needed for the employer as a maintenance worker from November 2006 to September 19, 2008, when his work ended.

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 15, 2009. His average weekly wage based on his highest quarter of wages in his base period was \$672.11. The claimant received Department-Approved Training for the period from March 21 to May 30, 2009.

On March 21, 2009, the employer offered the claimant a one-day job paying \$7.50 per hour for approximately eight hours of work. The claimant declined the job because he was on his way to school. The employer contacting the claimant again on April 23, 2009, about a short-term job paying \$10.50 per hour but was unsuccessful in reaching him.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

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...

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.

The work offered the claimant on March 21, 2009, was unsuitable because it did not offer the claimant 100 percent of his average weekly wage of \$672.11. The reason for the claimant declining the job does not matter, the law deems work offered at less than the designated amount as unsuitable.

Additionally, since the claimant was approved for department-approved training, the rule provides that a "claimant need not be available for work or actively seeking work" while attending an approved training course. 871 IAC 24.39(2). The rules provide that contributing employers are not charged for benefits paid to claimant in approved training but reimbursing employers are chargeable for benefits paid during an approved training period. 871 IAC 25.43(7). Finally, there is no provision in the law that relieves employers from being charged simply based on the fact that the person works on-call, as-needed.

DECISION:

The unemployment insurance decision dated April 14, 2009, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw