

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RONALD LIVINGSTON
Claimant

GETTERDONE INC
Employer

APPEAL 22A-UI-03581-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/19/21
Claimant: Respondent (1R)**

Iowa Code § 96.5(3)(a) – Failure to Accept Work

STATEMENT OF THE CASE:

On January 26, 2022, the Employer filed an appeal from the January 21, 2022, (reference 02) unemployment insurance decision that allowed benefits based on a determination that the claimant did not fail to accept a suitable offer of work .because no offer was actually made. The parties were properly notified about the hearing. A telephone hearing was held on March 10, 2022. Claimant, Ronald Livingston, did not call the toll-free number listed on the notice of hearing and did not participate. Employer participated through Kelly Christensen, Human Resources Manager. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant refuse accept a suitable offer of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an original claim for benefits with an effective date of December 19, 2021. Claimant began working for employer on March 11, 2019. Claimant last worked as a full-time General Manger. Claimant was separated from employment on June 7, 2021, when without any notice he voluntarily quit his employment for personal reasons.

The claimant's separation from employment has not been investigated or determined by Iowa Workforce Development Department Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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:

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

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

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

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.24(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.

(emphasis added).

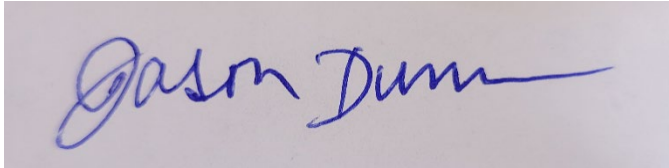
The claimant's employment ended on June 7, 2021. That date is not within the claimant's benefit year effective December 19, 2021. As such, there is no disqualification that can be imposed because the administrative law judge's lack of jurisdiction to determine any failure to accept work because claimant's employment ended on June 7, 2021.

DECISION:

The January 21, 2022, reference 02, decision is affirmed. The issue of whether the claimant failed to accept a suitable offer of work occurred outside of the claimant's benefit year and the administrative law judge lacks jurisdiction on this issue.

REMAND:

The claimant's separation from this employer is remanded to the Benefits Bureau for investigation and determination.



Jason Dunn
Administrative Law Judge
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March 25, 2022
Decision Dated and Mailed

jd/scn