

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIKE L BRITTON
Claimant

APPEAL NO. 08A-UI-00775-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NCS PEARSON INC
Employer

OC: 12/16/07 R: 03
Claimant: Appellant (2)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

Mike Britton filed an appeal from a representative's decision dated January 18, 2008, reference 01, which denied benefits based on his separation from NCS Pearson, Inc. (Pearson). Due notice was issued scheduling a hearing by telephone on February 6, 2008. Because weather conditions prevented the employer from being at its office, the parties agreed to hold the hearing on February 8, 2008. Mr. Britton participated personally. The employer participated by Jerra Garcia, Human Resources Generalist.

ISSUE:

At issue in this matter is whether Mr. Britton was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Britton worked for Pearson from February 6 until June 28, 2007. He was laid off due to lack of work and told that he probably would not be recalled for further work until the spring of 2008.

Pearson recalled Mr. Britton to work effective October 28, 2007. There were approximately two weeks of work available for him at that time. He would have worked 37.5 hours each week at \$9.00 per hour. Mr. Britton notified Pearson in advance that he would not be accepting the work. He declined the work because he was already working a part-time job and did not want to interrupt it for two weeks of work. He continues to look for and be available for full-time, long-term employment.

REASONING AND CONCLUSIONS OF LAW:

The fact that Mr. Britton declined work with Pearson in October of 2007 raises a refusal-of-work issue and not a separation issue. An individual who refuses an offer of suitable work without good cause is disqualified from receiving job insurance benefits. See Iowa Code section 96.5(3)a. In the case at hand, the work was refused because Mr. Britton was already

working elsewhere. The law considers this good cause for a work refusal. See 871 IAC 24.24(7).

Mr. Britton had been on layoff from Pearson since June 28 and did not expect to be recalled until the spring of 2008. It was reasonable for him to seek work elsewhere during the interim. It was also reasonable for him to decline two weeks of work in favor of continuing his regular job. For the reasons stated herein, the administrative law judge concludes that no disqualification is imposed as a result of him declining work effective October 28, 2007.

DECISION:

The representative's decision dated January 18, 2008, reference 01, is hereby reversed. Mr. Britton had good cause for refusing work with Pearson on October 28, 2007. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs