

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGE A BRASSFIELD

Claimant

APPEAL NO. 08A-UI-07856-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVENTURE LANDS OF AMERICA INC

Employer

**OC: 07/06/08 R: 12
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available for Work
871 IAC 24.24(8) – Work Refusal Disqualification Jurisdiction

STATEMENT OF THE CASE:

Adventure Lands of America Inc. filed an appeal from a representative's decision dated August 25, 2008, reference 01, that allowed benefits, finding that the claimant did not have a valid unemployment insurance claim when he did not accept an offer of work with Adventure Lands of America on March 15, 2008. After due notice was issued, a hearing was scheduled for and held on September 16, 2008. The claimant participated personally. The employer participated by John Krantz, company president.

ISSUES:

The issues in the matter are whether the claimant is able and available for work and whether the claimant had a valid unemployment insurance claim when offered work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant last worked for this employer on November 15, 2007, when he was laid off seasonally. Mr. Brassfield worked as a seasonal painter and was paid by the hour.

On or about March 15, 2008, the claimant was contacted by Adventure Lands of America Inc. and was offered work in his normal capacity as a seasonal painter at the same rate of pay. The claimant declined the offer because of travel distance and expense. At the time of the offer and refusal, the claimant did not have a valid unemployment insurance claim.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant had a valid unemployment insurance claim at the time that he was offered work on or about March 15, 2008. He did not.

The evidence in the record establishes that although Mr. Brassfield subsequently had a claim for benefits, the claimant did not have a valid unemployment insurance claim in effect at the

time that the work offer was made. As the offer of work and the accompanying refusal must occur within an individual benefit year, a disqualification from the receipt of unemployment insurance benefits cannot be imposed in this case. It appears that the employer has not made a subsequent offer of suitable work to the claimant after the claimant's most recent benefit year began. Therefore, the claimant cannot be disqualified from receipt of unemployment insurance benefits based upon the prior offer that occurred when the claimant did not have a valid unemployment insurance benefit claim.

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.

For the reason stated herein, the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits, provided he meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated August 25, 2008, reference 01, is hereby affirmed. The claimant is eligible to receive unemployment insurance benefits as long as he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw