

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EARL L HALBUR**

Claimant

**APPEAL NO. 12A-UI-05545-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LYNCH LIVESTOCK INC**

Employer

**OC: 04/01/12**

**Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work

**STATEMENT OF THE CASE:**

The employer, Gerald J. Lynch (Lynch), filed an appeal from a decision dated May 2, 2012, reference 02. The decision allowed benefits to the claimant, Earl Halbur. After due notice was issued, a hearing was held by telephone conference call on June 5, 2012. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Human Resources Director Lori Thompson and COO Paulo Strayer.

**ISSUE:**

The issue is whether the claimant refused a suitable offer of work.

**FINDINGS OF FACT:**

Earl Halbur was laid off from his employer due to a business closing effective April 3, 2012. Prior to the closing he was offered a job at Lynch Livestock which is located 20 miles further away from his home than his previous job. The hours and pay would be the same but the job duties would be more livestock handling than the artificial insemination of swine he had been performing prior to the layoff. He notified COO Paul Strayer he would not be accepting the job at the end of March 2012.

**REASONING AND CONCLUSIONS OF LAW:**

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. 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. 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.

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

871 IAC 24.24(1)a provides:

- (1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The claimant refused the offer of work because the commuting distance would be more and the job duties would not be the same. The offer and the refusal took place prior to him filing for unemployment benefits. Under the provisions of the above Administrative Code section, this is not a disqualifying refusal.

**DECISION:**

The representative's decision of May 2, 2012, reference 02, is affirmed. Earl Halbur is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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