

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GREGORY T SEYDEL**  
Claimant

**APPEAL NO. 13A-UI-07186-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY CONSTRUCTION GROUP LC**  
Employer

**OC: 06/02/13**  
**Claimant: Respondent (1)**

Section 96.5-3-A – Work Refusal

**STATEMENT OF THE CASE:**

The employer filed an appeal from a representative's decision dated June 12, 2013, reference 01, which held that the claimant was eligible for unemployment insurance benefits. After due notice, a hearing was held on August 20, 2013, by telephone conference call. The hearing could not be completed at that time due to missing exhibits. The hearing was rescheduled for August 29, 2013. The claimant participated personally. The claimant was represented by Mary Hofer, attorney at law. The employer participated by Jon Tiemeyer, owner. The record consists of the testimony of Jon Tiemeyer; the testimony of Gregory Seydel; Claimant's Exhibits A-D: and Employer's Exhibits 1-4. Official notice is taken of the original claim date, which is June 2, 2013.

**ISSUE:**

Whether the claimant had a valid claim for unemployment insurance benefits when he refused an offer of suitable work on May 8, 2013.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a commercial general contractor. The claimant was hired on September 20, 2011, as a full-time construction worker. The claimant's last day of work was February 13, 2013. The claimant had sustained a work-related injury in October 2011. He was off work after February 13, 2013, to have surgery for this work-related injury.

The claimant was given a full-duty release with no restrictions as of May 8, 2013. (Exhibit 4) The claimant was offered a job on May 8, 2013. The claimant refused the offer. The claimant did not establish his claim for unemployment insurance benefits until June 2, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The claimant is eligible for unemployment insurance benefits. The evidence established that the claimant refused an offer of suitable work on May 8, 2013. At the time of this refusal, however, the claimant did not have an established claim for unemployment insurance benefits. Iowa law requires that both the offer of work and refusal occur during the claimant's benefit year before any disqualification can be imposed. Since the refusal did not occur during the claimant's benefit year, no disqualification can be imposed.

**DECISION:**

The decision of the representative dated June 12, 2013, reference 01, is affirmed. The claimant is not disqualified as a result of the refusal of work on May 8, 2013.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs