

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SETH J PINNEY

Claimant

APPEAL NO: 14A-UI-02319-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PROFESSIONAL CONCRETE INC

Employer

OC: 01/05/14

Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Refusal of Return to Work

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's February 19, 2014 determination (reference 03) that held the claimant eligible to receive benefits because the employer did not make a bona fide offer work to the claimant. The claimant did not respond to the hearing notice or participate at the March 24 hearing. Jim Cook, the president, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is eligible to receive benefits.

ISSUE:

Did the employer make a bona fide offer of work to the claimant on or about November 1, 2013?

FINDINGS OF FACT:

The claimant worked part time as a laborer on an as-needed basis for the employer. In late October or early November 2013, the employer called and left the claimant messages on his phone about work he could do for the employer. The claimant did not return the employer's calls.

The claimant also worked for another employer during the fourth quarter of 2013. The claimant earned significant wages from the other employer. The administrative record indicates the claimant did not file a claim for benefits until his "regular" employer had to lay him off from work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he declines an offer of work without good cause. Iowa Code § 96.5(3)a. In deciding whether a claimant failed to accept suitable work, the evidence must establish that a bona fide offer was made by a personal contact or for purposes of a recall the employer sent a registered letter. 871 IAC 24.24(1).

Leaving messages on the claimant's phone does not establish a bona offer of work or a bona fide recall to work. As a result, the employer did not establish that a bona fide recall to work was made. The claimant is eligible to receive benefits as of November 1, 2013.

DECISION:

The representative's February 19, 2014 determination (reference 03) is affirmed. The employer did not make a bona offer of work or recall to work. The claimant is not disqualified from receiving benefits as of November 1, 2013.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs