

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEON L COLEMAN

Claimant

APPEAL NO. 07A-UI-07596-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF CEDAR RAPIDS

Employer

**OC: 07/01/07 R: 04
Claimant: Appellant (2)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The claimant, Leon Coleman, filed an appeal from a decision dated August 1, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 21, 2007. The claimant participated on his own behalf and was represented by Attorney Christy Popejoy. The employer, Manpower, participated by Administrative Assistant Barb Kotz.

ISSUE:

The issue is whether the claimant refused an offer of suitable.

FINDINGS OF FACT:

Leon Coleman filed a claim for unemployment benefits with an effective date of July 1, 2007. His average weekly wage during his base period was \$521.81. He was contacted on July 6, 2007, by Manpower Branch Manager Karen Elliott and offered two job assignments. The first was at Aldi's in Macomb, Illinois, a distance of 50 miles from the claimant's home. The exact job and the rate of pay are not known. The claimant declined because of the commuting distance.

The second job was with Central Underwater at a rate of \$10.00 per hour, filling sandbags to protect a pipeline from flood waters. The claimant's average weekly wage during his base period was \$521.81. He declined that one as well.

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(7) provides:

- (7) Gainfully employed outside of area where job is offered. Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

The claimant declined both jobs for good cause. The first was outside the area where the claimant resided. The second job did not meet the wage requirements under the above Code section, as it paid less than 100 percent of his average weekly wage during the base period. Disqualification may not be imposed.

DECISION:

The representative's decision of August 1, 2007, reference 01, is reversed. Leon Coleman is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw