

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFERY E HUDSON

Claimant

APPEAL NO: 13A-UI-14186-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A+ LAWN & LANDSCAPING INC

Employer

OC: 06/23/13

Claimant: Appellant (4/R)

Iowa Code § 96.4(3) – Availability for Work
Iowa Code § 96.5(3)a – Refusal of Suitable Work Offer

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 18, 2013 determination (reference 06) that held him disqualified from receiving benefits as of December 3, 2013, because he refused an offer of work without good cause. The claimant participated in the January 21 hearing with his witness, Jessica Moreno. Bobby Dunn, the department manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits as of December 1, 2013.

ISSUES:

Is the claimant able to and available for work as of December 1, 2013?

Did the claimant refuse an offer of suitable work for reasons that disqualify him from receiving benefits?

FINDINGS OF FACT:

The claimant started working for the employer in July 2013. The claimant understood he would have a seasonal layoff, but the employer expected all employees to work when there was snow removal work.

The claimant's fiancée is expecting a child. She has been on complete bed rest since mid-October 2013. As a result of her pregnancy, she has a number of medical appointments, scheduled and unscheduled, that the claimant takes her to.

In early December, the employer told the claimant there was snow removal work for him to do on December 3. The claimant informed the employer he was not available to work because he had to go to an appointment. The employer had snow removal work for the claimant to do on November 25, December 3, 9, 13, 16, 22, and 30. The claimant informed the employer the week of December 2, that he was not available to work because he was caring for his pregnant fiancée. The claimant will be available for work after the baby is born.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he refuses an offer of work without good cause attributable to the employer. Iowa Code § 96.5(3)a. Before a claimant can be disqualified from receiving benefits, he must be able to and available for work. 871 IAC 24.24(4). Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3).

As of December 1, the claimant has not been available for work because he is taking care of his fiancée on a full-time basis. While the claimant's decision to care for his fiancée is admirable, it makes him unavailable for work when the employer needs him. Therefore, as of December 1, 2013, the claimant is not available for work and ineligible to receive benefits. When the claimant's fiancée is able to care for herself or other arrangements have been made so the claimant is not responsible for taking care of her and taking her to all her medical appointments, the claimant should contact the employer so the employer knows he is available for work. The claimant should also reopen his claim and establish his availability for work.

An issue of overpayment of benefits the claimant may have received for the week ending December 7 will be remanded to the Claims Section to determine.

DECISION:

The representative's December 18, 2013 determination (reference 06) is modified in the claimant's favor. The facts establish the claimant is not available for work as of December 1 because he is caring for his fiancée. As of December 1, the claimant is not eligible to receive benefits. Since he is not available for work, a disqualification for refusing suitable work will not be imposed. After the baby is born and his fiancée no longer requires bed rest, the claimant should reopen his claim and establish his availability for work. He should also contact the employer so the employer knows he is again available for work.

An issue of overpayment of benefits the claimant may have received for the week ending December 7, 2013, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css