

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRADLEY D SPRAY
Claimant

APPEAL NO. 08A-UI-04093-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE STAFFING SERVICES INC
Employer

OC: 09/02/07 R: 04
Claimant: Respondent (2)

Section 96.5(3)a – Refusal of Work
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Riverside Staffing, filed an appeal from a decision dated April 17, 2008, reference 01. The decision allowed benefits to the claimant, Bradley Spray. After due notice was issued a hearing was held by telephone conference call on May 12, 2008. The claimant participated on his own behalf. The employer participated by Senior Staffing Consultant Karrie Minch.

ISSUE:

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

FINDINGS OF FACT:

Bradley Spray began working for Riverside Staffing in 2007. His last assignment through the employer ended November 30, 2007. He was contacted by Jessica, a staffing consultant, on January 15, 2008, for a long-term assignment at Le Claire Manufacturing. This was full-time work at \$8.50 per hour. Mr. Spray filed a claim for unemployment benefits with an effective date of September 2, 2007 and his average weekly wage during his base period was \$322.20.

He refused because he had already had an interview with Le Claire Manufacturing in an attempt to secure a permanent job with the company on his own. He had a second interview scheduled around January 22, 2008, and rejected the assignment. He later rejected the job offer made by Le Claire Manufacturing because it was not the type of job he wanted.

Bradley Spray has received unemployment benefits since filing an additional claim with an effective date of March 9, 2008.

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.

The claimant refused an offer of work with Riverside Staffing on January 15, 2008, because he wanted to attempt to secure employment on his own. The rate of pay was more than 75 percent of his average weekly wage during his base period. The offer of work was made in the seventh week since his last assignment ended which makes the weekly wage of \$340.00 within the criteria of the above Code section for being suitable.

DECISION:

The representative's decision of April 17, 2008, reference 01, is reversed. Bradley Spray is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$392.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs