

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN STEVENSON**  
Claimant

**APPEAL NO. 06A-UI-11783-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**USA STAFFING INC**  
Employer

**OC: 11-12-06 R: 02**  
**Claimant: Respondent (1)**

Section 96.5(3)a – Work Refusal

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 6, 2006, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 21, 2006. The claimant participated in the hearing. Brandon Rost, Branch Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant was employed as a full-time, second shift production laborer for Labor Ready, last assigned to work at Lennox in Marshalltown, Iowa, from July 10, 2006 to November 15, 2006, earning \$10.00 per hour. The assignment ended because that specific job was completed November 15, 2006. The employer made an offer of work to the claimant on November 16, 2006. That offer included the following terms: Full-time general labor concrete work at the Clarion Company in Ames, Iowa, working 12 hour days from 7:00 p.m. to 7:00 a.m. earning \$9.49 per hour. The offer was made in the first week of unemployment. The claimant declined the offer because he was waiting to be recalled to Lennox in January and did not want to make the 40 minute one-way drive to Ames every day and work 12 hour overnight shifts. The claimant received a recall letter from Lennox December 18, 2006.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did not refuse a suitable offer of work.

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 job offered by the employer was in Ames, Iowa, which was 40 minutes away from the claimant's home and included hours that were substantially different than those he worked at Lennox. Additionally, the claimant anticipated that he would be recalled to Lennox and in fact received a recall letter December 18, 2006. For those reasons, the administrative law judge concludes that the claimant did not refuse a suitable offer of work. Therefore, benefits are allowed.

**DECISION:**

The December 6, 2006, reference 01, decision is affirmed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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