

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MICHAEL D DINGMAN
Claimant

APPEAL NO. 16A-UI-04832-S1T-

**ADMINISTRATIVE LAW JUDGE
DECISION**

VAN DIEST SUPPLY COMPANY
Employer

**OC: 12/27/15
Claimant: Appellant (2)**

Section 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Michael Dingman (claimant) appealed a representative's April 19, 2016 (reference 02) decision that concluded he was not eligible to receive unemployment insurance benefits because he refused suitable work with Van Diest Supply Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 11, 2016. The claimant was represented by Stuart Cochrane, Attorney at Law, and participated personally. The employer provided a telephone number for the hearing. Just prior to the hearing the employer indicated it did not wish to participate in the hearing. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant refused suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: On March 15, 2016, the claimant received a conditional employment offer with Nestle Purina PetCare Company for full-time work at \$21.25 per hour. On March 16, 2016, the claimant completed a pre-employment drug screen test. On March 25, 2016, the claimant had a pre-employment physical. He had submitted information for a pre-employment background screening. The claimant understood that he had passed his physical and drug screen.

In the midst of his application for that job, the claimant had an interview for a job with the employer on March 23, 2016. The employer made the claimant a formal offer for full-time work for \$18.60 per hour pending a drug screen, physical, and background check. The employer did not indicate when work would start. The claimant asked the employer if he could wait until Friday, March 25, 2016 to accept the offer. The employer granted him time to accept. On March 25, 2016, the claimant refused the offer of work with the employer because he accepted work with Nestle Purina PetCare Company. The claimant started work with Nestle on April 11, 2016.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Admin. Code r. 871-24.24(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.

Iowa Admin. Code r. 871-24.24(15)(k) provides:

Suitable work. In determining what constitutes suitable work, the department shall consider, among other relevant factors, the following:

(k) Whether the wages, hours or other conditions of employment are less favorable for similar work in the locality.

The claimant refused work because he had accepted another job. The claimant is eligible to receive unemployment insurance benefits for the three-week period ending April 9, 2016.

DECISION:

The representative's April 19, 2016 (reference 02) decision is reversed. The claimant is eligible to receive unemployment insurance benefits for the three-week period ending April 9, 2016.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can