

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN C CHANDLER
Claimant

APPEAL NO. 11A-UI-11217-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAREER OPTIONS INC
Employer

OC: 01/30/11
Claimant: Respondent (1R)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Career Options, Inc. filed a timely appeal from an unemployment insurance decision dated August 16, 2011, reference 08, that allowed benefits to Justin C. Chandler upon a finding that the offer of work made to him on July 10, 2011 was not suitable. After due notice was issued, a telephone hearing was held September 15, 2011 with Executive Director Kristin Mering participating for the employer. Mr. Chandler participated on his own behalf. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

Did the claimant refuse a suitable offer of work on July 10, 2011?

FINDINGS OF FACT:

Justin C. Chandler filed a claim for unemployment insurance benefits effective January 30, 2011. His average weekly wage in the highest quarter of his base period was \$703.13. Mr. Chandler requested and received unemployment insurance benefits for the three weeks ending February 19, 2011. He then filed an additional claim for benefits effective July 10, 2011.

On or about July 10, 2011 Career Options, Inc. offered a temporary production position to Mr. Chandler, guaranteeing him 40 hours of work at \$11.00 per hour. He declined the offer.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant refused a suitable offer of work. He did not.

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.

Since Mr. Chandler's additional claim for benefits was filed during the same week that the offer of work was made, the offer must have been for a wage equaling 100 percent of his average weekly wage during his base period, \$703.13 or approximately \$17.58 per hour. Since the wage offered by Career Options, Inc. was lower than this figure, the offer was by definition unsuitable. No disqualification may be imposed.

During testimony, the employer referred to an earlier offer of work in May 2011. The question of whether the offer was suitable and whether benefits should be denied as a result of the refusal of that offer is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated August 16, 2011, reference 08, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The question of the consequences of a refusal of work made on or about May 7, 2011 is remanded.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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