

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRAVIS BOTTOMS
Claimant

APPEAL NO: 15A-UI-01938-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 01/11/15
Claimant: Respondent (1)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 6, 2015, reference 02, 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 March 13, 2015. The claimant participated in the hearing. Colleen McGuinty, Unemployment Benefits Administrator and Carrie Cannon, Operations 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 employer made an offer of work to the claimant on January 23, 2015. That offer included the following terms: A first shift position as a machine operator/general laborer at Premier Tooling in Peosta, Iowa, earning \$10 per hour. The claimant's average weekly wage is \$428.60. The offer was made in the first week of unemployment during a phone call between the claimant and Account Manager Joe Vermeulen.

At the time of hire the claimant indicated he would accept work in Dubuque and Peosta. He does not have a driver's license and must rely on public transportation or his ability to walk to the assignment. The claimant declined the offer of work from the employer because he did not have transportation to Peosta.

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 § 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 employer did make a valid offer of work to the claimant as the claimant had a claim for unemployment at the time of the offer of work January 23, 2015. The offer was unsuitable, however, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. The claimant's average weekly wage, as determined by the Department, is \$428.60 and the job offered by the employer paid \$10 per hour, which would have resulted in an average weekly wage of \$400. Consequently, while the job offer met all other requirements for suitability, the fact that the wages did not meet his average weekly wage amount results in the job offer being considered unsuitable as that term is defined by Iowa law. Therefore, benefits must be allowed.

DECISION:

The February 6, 2015, reference 02, decision is affirmed. The claimant did not refuse a suitable offer of work because the offer did not meet the required average weekly wage of \$428.60. Benefits are allowed, provided claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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