

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILEY FRANKLIN
Claimant

APPEAL NO. 08A-UI-01565-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
Employer

**OC: 01/06/08 R: 03
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available for Work
Section 96.5-3-a – Offer of Suitable Work

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated February 6, 2008, reference 02, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 3, 2008. The claimant participated. The employer participated by Jeff Oswald, hearing representative, and witness Doug Mienders, branch manager.

ISSUE:

The issue in this matter is whether the claimant is able and available for work and whether he has shown good cause for refusing an offer of suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant last worked for this temporary employer on December 1, 2007, when he completed a one-day assignment as a traffic flagger for a client employer. Mr. Franklin contacted the temporary employment service within three days to inform them that his assignment had ended and to seek other job assignments. On January 3, 2008, the claimant contacted the temporary employment service early in the morning seeking work. Later that morning, an offer was made of a one-day assignment; however, at that time, Mr. Franklin was unable to accept the assignment, as his doctor's office had called and reminded the claimant of a pre-scheduled appointment for that morning. On January 17, 2008, the claimant was offered a one-day assignment shoveling snow. The claimant was willing to accept the assignment but was unable to get to the office due to inclement weather conditions. The claimant normally attempts to walk to the employer's temporary employment office but was unable to do so that day due to heavy snow. Mr. Franklin has continued to be in contact with the employer and has accepted additional assignments from USA Staffing.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes, based upon the totality of the hearing record, that the claimant has shown good cause for refusing offers of suitable work on January 3 and 17, 2008. The claimant was unexpectedly reminded of a pre-scheduled doctor's appointment for the morning of January 3, 2008, and therefore could not accept an assignment that morning. On January 17, 2008, inclement weather conditions, including heavy snow, prevented the claimant from walking a substantial distance to the employer's facility to accept a one-day assignment as a snow shoveler. Mr. Franklin has demonstrated an active interest in becoming re-employed and has regularly contacted USA Staffing for re-assignments and has been sent to additional assignments since the dates of the refusals.

The administrative law judge concludes, based upon the evidence in the record, that the claimant is able and available for work within the meaning of the Iowa Employment Security Act and that he has shown good cause for the above two cited refusals.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

For the reasons stated herein, the administrative law judge concludes that the claimant is able and available for work and has shown good cause for refusing an offer of suitable work. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated February 6, 2008, reference 02, is hereby affirmed. The claimant is able and available for work for the majority of the workweek. Unemployment insurance benefits allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw