

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOB J ROUSH
Claimant

APPEAL NO. 07A-UI-03708-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 03/04/07 R: 02
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Bob Roush (claimant) appealed a representative's April 4, 2007 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he refused suitable work with DES Staffing Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 26, 2007. The claimant participated personally. The employer participated by Kathy Anderson, Assistant Human Resources Manager. The employer offered one exhibit which was marked for identification as Exhibit One. Exhibit One 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: The claimant was hired on March 29, 2006, as a temporary worker. At the time he was hired the only restriction on his availability was a 50-mile radius of his home. At some point the claimant became a full-time student. The claimant worked an assignment from December 21, 2006, until January 8, 2007. He quit to return to school.

On March 8, 2007, the employer offered the claimant a position paying \$9.00 per hour or \$360.00 per week working third shift. The location was less than 50 miles from his home. The claimant had worked third shift before. The claimant refused the work because of transportation. He did not want his driver to travel so far at night.

The claimant filed a claim for unemployment insurance benefits with an effective date of March 4, 2007. The claimant's average weekly wage during his highest quarter of wages was \$270.25.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant refused suitable 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 work was offered within one week of the claimant's unemployment and was required to provide the claimant wages one hundred percent of those paid to the claimant during the highest quarter of his base period. The evidence establishes that the claimant would have received at least one hundred percent of his average weekly wages during his highest quarter of earnings. The work offered was within the claimant's requested radius and hours. Based on

the factors found in Iowa Code section 96.5-3-a, the work offered to the claimant was suitable work. The claimant is disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's April 4, 2007 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs