

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD E STEGALL
Claimant

APPEAL NO. 12A-UI-03118-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WORKSOURCE INC
Employer

OC: 01/22/12
Claimant: Respondent (1)

Section 96.5-3-a - Failure to Accept Suitable Work
Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 21, 2012, reference 04, that concluded the claimant was able to and available for work. A telephone hearing was held on April 25, 2012. The parties were properly notified about the hearing. The claimant did not participate in the hearing. Lorie Streeter participated in the hearing on behalf of the employer. Exhibit A was admitted into evidence at the hearing.

ISSUES:

Did the claimant fail to accept an offer of suitable work without good cause?
Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer on an assignment at Walmart Distribution Center from November 14 to 29, 2011. He completed the assignment and contacted the employer within three days to request another assignment, but nothing was immediately available.

The claimant filed a new claim for unemployment insurance benefits effective January 22, 2012. His average weekly wage based on his highest quarter of wages in his base period was \$319.85. The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

After the claimant filed his claim for benefits, the employer contacted the claimant about a janitorial job assignment with GSF Inc. on January 26, 2012. The job was full time, paid \$8.75 per hour, and was an indefinite assignment. The claimant met with a supervisor with GSF on January 30, 2012, who offered him the job. She explained that he would be trained by an employee who she intended to fire after the claimant was trained. He would then take that person's position. The supervisor was supposed to call him later that day to let him know whether he was to start that night or the next. She never called the claimant that day.

On the night of January 30, the claimant had to take his daughter into the hospital because of a severe reaction to a spider bite. He decided not to accept the job due to what the supervisor told him about the job.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

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....

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.

While the rate of pay offered meets the standard of Iowa Code § 96.5-3-a for suitable work, the evidence shows the claimant had good cause to decline the job based on what the supervisor said when she offered him the job. The claimant was supposed to be trained by someone who he had been told was going to be fired. And he was to be supervised by the person who divulged her plans to him after just meeting him. He apparently was to keep this a secret from his trainer. The claimant was not required to participate in this deceitful ploy.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based the reasons for his separation from employment.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. Availability is determined on the majority of the week basis. Although the claimant had to care for his child the evening of January 30, there is no evidence that the claimant was unavailable to work a majority of the week.

DECISION:

The unemployment insurance decision dated March 21, 2012, reference 04, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs