

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON D BOUDEWYN**  
Claimant

**APPEAL NO. 08A-UI-00415-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PAULEY & SONS INC**  
Employer

**OC: 12/09/07 R: 04  
Claimant: Respondent (5)**

Section 96.5-3-a – Refusal of Offer of Work

**STATEMENT OF THE CASE:**

Pauley & Sons, Inc. (employer) appealed a representative's January 7, 2008 decision (reference 01) that concluded Jason D. Boudewyn (claimant) remained eligible to receive benefits on December 19, 2007 because the employer did not actually offer the claimant any work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 29, 2008. The claimant participated in the hearing. Clayton Pauley, the owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer offer the claimant suitable work that the claimant declined?

**FINDINGS OF FACT:**

The claimant last worked for the employer on May 19, 2007. Although the employer told the claimant he was laid off, the employer discharged him. The employer concluded the claimant had stolen from the employer. When the claimant filed weekly claims for benefits subsequent to May 19, 2007, the employer did not protest the claimant's receipt of benefits.

The claimant established a second benefit year during the week of December 9, 2007. The employer asserted that on December 19, 2007, at 6:30 p.m., the employer personally talked to the claimant about coming back to work for the employer. The employer had a job in Burlington, about an hour from the claimant's residence that the employer needed help to complete. The employer wanted the claimant to report to work within a day or two. The employer would have paid the claimant the wage he had earned in May 2007.

Although the employer still believed the claimant had stolen from him, the employer asserted he wanted to give the claimant another chance. The claimant denied or does not remember talking to the employer anytime after May 19, 2007. Even though the employer contended that the claimant declined the work because he was working at another job, the claimant disputed that he was working at that time. The claimant would have had problems getting to Burlington

because he does not have a vehicle. When he worked before for the employer, he rode with his brother. The claimant's brother no longer works for the employer.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he refuses an offer of suitable work without good cause. Iowa Code § 96.5-3-a. Since the employer and claimant presented conflicting testimony, this administrative law judge is examining the evidence that is most favorable to the employer. Assuming the employer offered the claimant a job in Burlington, the claimant demonstrated good cause for declining the job because of the distance from the job and the claimant's residence. The claimant would have declined the job for good cause or because the offer of work was not suitable for the claimant. Therefore, as of December 19, 2007, the claimant remains eligible to receive benefits.

**DECISION:**

The representative's January 7, 2008 decision (reference 01) is modified but the modification has no legal consequences. The employer offered the claimant a job that was not suitable for the claimant. Therefore, as of December 19, 2007, the claimant remains eligible to receive unemployment insurance benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css