

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**Appeal Number: 04A-UI-02044-DWT
OC 11/30/03 R 02
Claimant: Appellant (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**CRAIG E BILLINGS
2315 – 27TH AVE S
CLEAR LAKE IA 50428**

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**IOWA ETHANOL LLC
3638 FIR AVE
HANLONTOWN IA 50444**

(Administrative Law Judge)

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

Craig E. Billings (claimant) appealed a representative's February 20, 2004 decision (reference 03) that concluded he was not qualified to receive benefits as of January 26, 2004 because he refused Iowa Ethanol LLC (employer) offer of work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 15, 2004. The claimant participated in the hearing. Tim Voegle, the general manager, and Sue Gallion 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 claimant refuse the employer's offer of suitable work?

FINDINGS OF FACT:

The claimant has not worked since December 1, 2003. He previously worked in law enforcement and earned \$15.43 an hour with full benefits. The claimant established a claim for unemployment insurance benefits during the week of November 30, 2003. Based on the wages in his base period, the claimant earned an average weekly wage of \$417.88 in the highest quarter of his base period.

The claimant applied all over for a job even though he wants to go back to law enforcement-type work. The claimant applied for a job with the employer. Based on the claimant's résumé, on January 28, 2004, the employer sent the claimant a letter offering him a job as a scale operator. The job would start on February 16, 2004, and the claimant would receive \$10.50 an hour. The claimant did not understand the employer would immediately give him full health benefits if he agreed to work full time.

On January 30, 2004, the claimant contacted the employer and declined the offer of work. The claimant declined the job offer because he really wanted a job in law enforcement, the hourly pay was too low and the claimant did not believe he would receive health insurance. The claimant acknowledged he was capable of performing the job even though he had never done it before.

REASONING AND CONCLUSIONS OF LAW:

A claimant may be disqualified from receiving unemployment insurance benefits if he refuses an offer of suitable work without good cause. Factors to consider when determining whether a job is suitable include, degree of risk involved to the claimant's health, the claimant's physical fitness, prior training, length of unemployment and prospects for securing local work in the claimant's primary occupation. Also when a claimant has been paid unemployment insurance benefits for ten weeks the wages the employer offers has to be at least 75 percent of the amount the claimant received in his highest base period quarter. Iowa Code §96.5-3-a.

The evidence shows the employer's wage of \$10.50 an hour is less than 75 percent of the hourly wage the claimant earned from his most recent job. The law, however, requires the wage to be equal to 75 percent of the claimant's highest base period wage, which was \$417.88 or \$10.44 per hour. The employer's offer of \$10.50 per hour is actually higher than the claimant's highest base period hourly wage. Even though the claimant wants law enforcement work, based on his prospect of getting work in his primary occupation and the fact he is capable of doing work as a scale operator, the employer's offer of work was suitable for the claimant.

The claimant declined the employer's suitable offer of work without good cause. The claimant incorrectly concluded he would not receive any benefits. As of February 1, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 20, 2004 decision (reference 03) is modified in the claimant's favor. The claimant refused an offer of suitable work without good cause on January 30, 2004. The claimant is disqualified from receiving unemployment insurance benefits as of February 1, 2004, instead of January 26, 2004. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

dlw/kjf