

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**DAVID ANDRADE**  
Claimant

**CRAMER AND ASSOCIATES INC**  
Employer

**APPEAL 22A-UI-00638-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/24/21**  
**Claimant: Respondent (1R)**

---

Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 7, 2021, (reference 02) unemployment insurance decision that allowed benefits. After due notice was issued, a telephone hearing was conducted on January 27, 2021. The claimant did not participate. Employer participated through Lori Starkey. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Was a suitable offer of work made to the claimant?  
If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed with this employer as a laborer from October 11, 2021 until October 26, 2021 when permanent separation occurred. No subsequent offers of work were made to the claimant.

The claimant established his claim with an effective date of October 24, 2021. The administrative records reflect that when the employer responded to the initial notice of claim, it stated the claimant had refused an offer of work on October 26, 2021. However, the claimant had not yet separated when the claimant allegedly refused to perform work.

The claimant's permanent separation on October 26, 2021 has not yet been addressed by the Benefits Bureau.

### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes no valid offer of work was made to the claimant.

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to

the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

In this case, the claimant was employed until October 26, 2021 and did not establish a claim for benefits until the week of October 24, 2021. The credible evidence presented does not support that a bona fide offer of work was extended to the claimant by this employer while he had a valid unemployment insurance claim. The employer, in error, stated in its claim protest that the claimant refused an offer of work on October 26, 2021, when the issue at hand needing to be addressed is whether he may have refused to perform work *in his existing employment*, which led to separation. Therefore, the administrative law judge concludes there was no valid offer of work made to the claimant for him to decline. Benefits are allowed, provided he is otherwise eligible.

The issue of claimant's permanent separation effective October 26, 2021 with this employer is remanded to the Benefits Bureau for an initial investigation.

**Note:** If claimant is disqualified for benefits based upon his separation, that decision will supersede this decision, which does not disqualify claimant.

**DECISION:**

The December 7, 2021 decision (reference 02) is affirmed. No valid offer of work was made by the employer. Benefits are allowed, provided the claimant is otherwise eligible.

**REMAND:**

The issue of claimant's permanent separation effective October 26, 2021 with this employer is remanded to the Benefits Bureau for an initial investigation.



---

Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

February 17, 2022  
Decision Dated and Mailed

jlb/mh