

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICHOLAS J MCALISTER
Claimant

APPEAL NO. 11A-UI-14311-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 12/12/10
Claimant: Appellant (2)

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 claimant appealed an unemployment insurance decision dated October 25, 2011, reference 06, that concluded he failed to accept suitable work without good cause. A telephone hearing was held on November 29, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Kayla Neuhalten participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant fail to accept an offer of suitable work without good cause?
Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits effective December 12, 2010. His average weekly wage from his highest quarter of wages during his base period was \$312.55.

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer on an assignment at Montezuma Manufacturing from May 20, 2011, to September 28, 2011. The job was full time at a rate of pay of \$14.00 per hour.

The claimant filed an additional claim for unemployment insurance benefits with an effective date of September 25, 2011.

On October 10, 2011, the employer offered the claimant a part-time job as a janitor for Cohen/Arbor Company. The job was in Grinnell, Iowa, and paid \$10.00 per hour for 24 hours of work per week. The claimant declined the job because he was looking for full-time work and the wages were too low. The claimant had been helping out on his uncle's farm but it was not for pay and did not limit his ability to accept suitable work.

The claimant stopped filing for unemployment benefits on October 15, 2011, because he secured a full-time job.

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.

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.

(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.

The work offered the claimant was not suitable because the wages offered were less than \$312.55 and the job was offered within two weeks of the claimant's filing an additional claim for benefits.

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 on the employment actions discussed in this decision.

DECISION:

The unemployment insurance decision dated October 25, 2011, reference 06, is reversed. 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