

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA J HALE

Claimant

APPEAL NO. 08A-UI-03238-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AHRENS CONSTRUCTION SERVICES

Employer

**OC: 02/24/08 R: 02
Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Ahrens Construction Services, filed an appeal from a decision dated March 25, 2008, reference 02. The decision allowed benefits to the claimant, Joshua Hale. After due notice was issued, a hearing was held by telephone conference call on April 16, 2008. The claimant participated on his own behalf. The employer participated by Business Manager Troy Zaruba.

ISSUE:

The issue is whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

Ahrens Construction Services was the union payroll company the employer used from 2002 until 2006. It has not been a viable portion of the business since the end of 2006. No offer of work was made by this company to the claimant on February 28, 2008.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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. 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. 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.

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

There was no offer of work made by Ahrens Construction Services to the claimant, as it was not a viable portion of the employer's business as of February 28, 2008.

DECISION:

The representative's decision of March 25, 2008, reference 02, is affirmed. Joshua Hale is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw