

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON K DANIELSON

Claimant

APPEAL NO: 15A-UI-03551-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 02/22/15

Claimant: Appellant (2)

Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

Jason K. Danielson (claimant) appealed a representative's March 10, 2015 decision (reference 03) that concluded he was not qualified to receive unemployment insurance benefits due to a refusal of work with Advance Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 28, 2015. The claimant participated in the hearing. The employer's representative received the hearing notice and responded by sending a statement to the Appeals Bureau indicating that the employer was not going to participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant ineligible to receive unemployment insurance benefits due to refusing a suitable offer of work without good cause?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant had one assignment with the employer which ended on November 26, 2014. He reopened his prior claim for unemployment insurance benefits and received benefits through the expiration of the claim year on February 21, 2015. He then established a second claim year effective February 22, 2015.

On February 17, 2015 the employer contacted the claimant and offered him a position with a welding company in North Sioux City, South Dakota. The claimant had previously been an employee of that welding company, and was of the understanding that he was ineligible to return to work at that company either directly or through a temporary employment firm. He asked the employer if this was no longer true, and the employer indicated that it would check into the situation. The employer called the claimant back a short while later and confirmed that in fact the claimant was not eligible to be placed on that assignment and effectively rescinded the offer.

The employer asserted that it was not participating in the hearing “due to judge bias.” No facts were provided to support this allegation.

REASONING AND CONCLUSIONS OF LAW:

The stated issue in this case is whether the claimant refused a suitable offer of work. Iowa Code § 96.5-3 provides that a claimant will be disqualified for benefits if he has failed without good cause to accept suitable work when offered. However, applying this statute, Rule 871 IAC 24.24(1)a provides that in order for there to be a disqualification for a refusal of work, there must have been a bona fide offer of work to the claimant by personal contact and a definite refusal was made by the claimant.

In this case, because the initial offer was effectively rescinded by the employer because the claimant was not eligible to be hired into the position, ultimately there was no bona fide offer of work made by the employer and no actual refusal of work on the part of the claimant. Benefits are allowed, if the claimant is otherwise eligible.

If a party believes that an administrative law judge has bias in a case, that party may seek to have the judge recuse himself or herself by filing an affidavit asserting bias and setting forth the basis for that assertion. Iowa Code § 17.17(8); Rule 871 IAC 26.7. The undersigned administrative law judge has no personal knowledge regarding this case; the only information used in reaching the conclusion is that information which has been presented during the course of the hearing, in this case, through the first-hand testimony of the claimant. The administrative law judge has no personal interest regarding either the claimant or the employer that could be affected by the outcome of this case, and has no personal sympathy toward or animus against either party. Rather, the administrative law judge only applies the applicable law and burden of proof to weigh the sufficiency of the evidence and to reach an appropriate legal conclusion. The employer has not provided any basis for its assertion of bias, and has not established that there is either actual bias or a bona fide appearance of bias. The employer’s assertion is without merit.

DECISION:

The representative’s March 10, 2015 decision (reference 03) is reversed. The claimant did not refuse a suitable offer of work. Benefits are allowed, if the claimant is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css