

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMON HEN
Claimant

APPEAL NO. 09A-UI-17663-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 10/25/09
Claimant: Appellant (2)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

Samon Hen filed an appeal from a representative's decision dated November 18, 2009, reference 02, which denied benefits on a finding that he refused suitable work with Swift & Company. After due notice was issued, a hearing was held by telephone on January 4, 2010. Mr. Hen participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Hen refused an offer of suitable work and, if so, whether the refusal was for good cause.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hen was employed by Swift from November 28, 2007 until October 23, 2009. He worked full time in production at the Marshalltown facility. He was discharged because of his attendance. On the same day, the employer offered to remove one of his attendance points and allow him to continue working. He declined because he was moving to Des Moines due to a death in the family.

Mr. Hen filed a claim for job insurance benefits effective October 25, 2009. On November 18, 2009, a decision was issued (reference 01) allowing benefits based on his separation from Swift. The determination was not appealed by the employer.

REASONING AND CONCLUSIONS OF LAW:

An individual who refuses an offer of suitable work without good cause is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. It is questionable as to whether the employer's offer to continue Mr. Hen's employment rather than discharge him constituted an offer of work within the meaning of section 96.5(3)a. Assuming that it did, the issue then becomes whether he had good cause for declining the offer.

The work offered to Mr. Hen by Swift was in Marshalltown. He had already made plans to relocate to Des Moines because of a death in the family. The fact that an individual does not live in the area where the work is offered is considered good cause for refusing the work. See 871 IAC 24.24(7). Mr. Hen did, in fact, move to Des Moines. Since he was no longer going to be living in Marshalltown where the work was located, he had good cause for refusing the job. As such, no disqualification is imposed.

DECISION:

The representative's decision dated November 18, 2009, reference 02, is hereby reversed. Benefits are allowed, provided Mr. Hen is otherwise eligible, as he had good cause for refusing an offer of suitable work with Swift.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs