

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RODNEY L HALL**  
Claimant

**APPEAL NO. 15A-UI-06457-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC**  
Employer

**OC: 05/03/15**  
**Claimant: Respondent (1)**

Iowa Code § 96.5-3-a – Work Refusal  
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated May 28, 2015, reference 02, which held claimant eligible for unemployment insurance benefits due to a refusal to accept work. After due notice, a telephone conference hearing was scheduled for and held on July 14, 2015. Claimant participated personally. Employer participated by Colleen McGuinty and Ali Mangelsdorf. Employer's Exhibit One was admitted into evidence.

**ISSUES:**

Whether claimant is able and available for work?

Whether claimant refused to accept a suitable offer of work?

Whether claimant is overpaid unemployment insurance benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Employer made an offer of work to the claimant on May 14, 2015. That offer included the following terms: Claimant would work first shift from 7:00 a.m. to 3:30 p.m. Claimant would be paid \$8.95/hour. Claimant's average weekly wage is \$373.78. The offer was made in the second week of unemployment. Claimant refused the offer of work because the claimant had worked for the company, Hill and Valley previously. Claimant stated that the work was around ovens and was entirely too hot and it made claimant feel sick.

Claimant told this to employer, and employer responded that Hill and Valley had moved buildings. The new building had much better ventilation and was not too hot. Claimant refused to go to the company's new building to try the placement.

Claimant has received unemployment benefits in this matter. Employer did substantially participate in the process through its entry of a written statement, and its acknowledgement that it could be called if additional information was required.

### **REASONING AND CONCLUSIONS OF LAW:**

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. 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.

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.

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work. Claimant was to get 40 hours of work at \$8.95/ hour. Claimant's average weekly wage for the base period was \$373.78. Claimant refused wages that were less than 100 percent of his average weekly wage during the first five weeks of unemployment. As such, claimant's refusal is allowed. The administrative law judge need not examine the refusal in light of the client's movement to a new office building with better ventilation in light of the wages offered.

The issue of overpayment of benefits is moot.

The issue of employer participation is moot.

**DECISION:**

The decision of the representative dated May 28, 2015, reference 02 is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/css