

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDON D REED
Claimant

APPEAL NO. 10A-UI-14718-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GP PLUMBING INC
Employer

OC: 09/12/10
Claimant: Appellant (2-R)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The claimant, Brandon Reed, filed an appeal from a decision dated October 19, 2010, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 15, 2010. The claimant participated on his own behalf and was represented by Marvin Kieckhafer. The employer, GP Plumbing, participated by Vice President David Phillips.

ISSUE:

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

FINDINGS OF FACT:

Brandon Reed was employed by GP Plumbing from August until December 9, 2009, as a full-time plumber. He was laid off for lack of work. On March 10, 2010, President Andrew Grove contacted the claimant and asked if he would return to work, as business had picked up. He declined, as he was already working for McIntosh Plumbing and getting full time hours.

The records of Iowa Workforce Development do not show any wages reported for the claimant by McIntosh Plumbing, and no notice of claim was mailed when Mr. Reed filed his most recent claim.

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.

871 IAC 24.24(7) provides:

- (7) Gainfully employed outside of area where job is offered. Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

The claimant refused a recall to work with GP Plumbing because he was working full-time with another company. Under the provisions of the above Administrative Code section, this is good cause for refusing a recall to work. Disqualification may not be imposed.

The issue of the claimant's wages from McIntosh Plumbing and his separation should be remanded for determination.

DECISION:

The representative's decision of October 19, 2010, reference 01, is reversed. Brandon Reed is qualified for benefits, provided he is otherwise eligible.

The issue of the claimant's employment and wages with McIntosh Plumbing is remanded to UIS division for determination and for the appropriate notice of claim to be issued if required.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw