

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EARL R ABBEY

Claimant

APPEAL NO. 09A-UI-14886-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING

Employer

OC: 07/05/09

Claimant: Appellant (1)

Section 96.5(3)a –Refusal of Work
Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Earl Abbey filed an appeal from a representative's decision dated September 22, 2009, reference 09, which denied benefits on a finding that he had refused suitable work from Sedona Staffing. After due notice was issued, a hearing was held by telephone on November 2, 2009. Mr. Abbey participated personally. The employer participated by Vanessa Laviada, Account Manager, and Colleen McGuinty, Unemployment Benefits Administrator.

ISSUE:

At issue in this matter is whether Mr. Abbey refused work through Sedona Staffing and, if so, whether such 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. Abbey last worked for Sedona Staffing on December 15, 2009. His last assignment was with Wilton Steel in Wilton, Iowa. He was contacted by telephone on July 15, 2009 and offered an assignment with Plastic Products. He had previously worked for Plastic Products through Sedona Staffing from June until September of 2008. There were openings on the first shift at \$8.50 per hour and third shift at \$9.50 per hour. It was a temp-to-hire position but was declined by Mr. Abbey because he did not have transportation to the job site approximately one hour from his home.

Mr. Abbey was offered another temp-to-hire position on July 20. This assignment was with Rinker Materials and paid \$10.50 per hour. The work was in Buffalo, Iowa, approximately 15 minutes from his home. He declined the work because he did not have transportation. A final temp-to-hire position was offered to Mr. Abbey on July 24. This assignment was with Block Highway in Blue Glass, Iowa, approximately 15 minutes from his home and paid \$10.50 per hour. This assignment was also declined due to lack of transportation.

The work offered to Mr. Abbey on July 15, 20 and 24 did not require any skills he did not already have. He filed a claim for job insurance benefits effective July 5, 2009. The average weekly

wage paid to him during that quarter of his base period in which his wages were highest was \$346.15.

REASONING AND CONCLUSIONS OF LAW:

An individual who refuses an offer of suitable work is disqualified from receiving job insurance benefits unless there was good cause for the refusal. Iowa Code section 96.5(3)a. The work offered on the three dates referenced herein was all suitable work as it did not require skills Mr. Abbey did not have and all three met the wage criteria outlined in section 96.5(3)a. He declined all three positions because he did not have transportation to the job sites. The lack of transportation is generally considered good cause for refusing an offer of suitable work. See 871 IAC 24.24(4). However, the lack of transportation raises the issue of whether Mr. Abbey is available for work within the meaning of the law.

In order to receive job insurance benefits, an individual must be available for work. Iowa Code section 96.4(3). Mr. Abbey would not be expected to have transportation for work that was an hour or more from his home. Therefore, his refusal of the work on July 15, 2009 with Plastic Products was not a disqualifying event. However, the work offered on July 20 and July 24 was no more than 15 minutes from Mr. Abbey's home. It is not unreasonable to expect him to have transportation to work within such a short distance from his home. He declined two temp-to-hire positions that paid suitable wages because he did not have transportation.

Based on the foregoing the administrative law judge concludes that Mr. Abbey is not available for work within the meaning of the law because he does not have transportation to the areas where work is most likely to be found in his geographic region. As such, benefits are denied as of the Sunday of the week in which he declined the work, July 19, 2009.

DECISION:

The representative's decision dated September 22, 2009, reference 09, is hereby affirmed. Mr. Abbey was not available for work effective July 19, 2009. Benefits are denied until such time as he establishes to Workforce Development that he is available for work within the meaning of the law, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css