

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BRANDON M JOHNSON**  
Claimant

**DES STAFFING SERVICES INC**  
Employer

**APPEAL 21A-UI-08416-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/10/20**  
**Claimant: Respondent (2)**

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Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

On March 26, 2021, the employer filed an appeal from the March 24, 2021, (reference 02) unemployment insurance decision that concluded employer did not make an offer of suitable work to claimant on October 23, 2020. The parties were properly notified about the hearing. A telephone hearing was held on June 8, 2021. Claimant Brandon M. Johnson did not register for the hearing and did not participate. Employer DES Staffing Services, Inc. participated through human resources manager Jamie Scott and director of operations Jennifer Norton. Employer's Exhibits 1 and 2 were received.

**ISSUES:**

Did claimant refuse a suitable offer of work?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established a claim for benefits with an effective date of May 10, 2020.

Claimant most recently worked on assignment in October 2020, earning \$15.00 per hour as a laborer. On October 23, 2020, claimant was contacted by phone by Carrie Boswell. She extended a job offer for full-time employment with GCO as a customer service representative, earning \$10.00 per hour, which claimant accepted. However, his computer did not run well enough to meet the company's requirements. Also on October 23, 2020, Boswell extended a job offer for full-time employment to claimant, earning \$15.50 per hour as a laborer at Iowa Cage Free. Boswell also offered claimant a full-time production position at Altec earning \$17.25 per hour. Claimant told Boswell he would think about the offers. Boswell sent a text message later that day to see if he wanted either position and claimant never responded.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of work.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) 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.

Employer offered claimant two jobs for which he was qualified at a rate of pay above that which he had been receiving. The job offers were therefore suitable, and claimant's declining of the offer of suitable work equates to claimant not being able and available for work and not qualified to receive unemployment benefits.

**DECISION:**

The March 24, 2021, (reference 02) unemployment insurance decision is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



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Stephanie Adkisson  
Administrative Law Judge  
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June 22, 2021  
Decision Dated and Mailed

sa/mh