

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN A ACKERMAN
Claimant

APPEAL NO: 14A-UI-09717-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PROLAWN PLUS INC
Employer

OC: 11/24/13

Claimant: Respondent (2)

Section 96.5-3-a – Work Refusal
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Prolawn Plus, Inc. (employer) appealed a representative's September 16, 2014 decision (reference 03) that concluded Dustin A. Ackerman (claimant) was qualified to receive unemployment insurance benefits with regard to an offer of work with the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 8, 2014. After waiver of notice, this appeal was consolidated for hearing with related Appeal No. 14A-UI-10502-DT. The claimant participated in the hearing. John Robson appeared on the employer's behalf. Two other witnesses, Christine Robson and Zack Robson, were available on behalf of the employer but did not testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant disqualified due to refusing an offer of suitable work without good cause?

FINDINGS OF FACT:

As determined in the concurrently issued decision in Appeal No. 14A-UI-10502-DT, the claimant's employment ended as of July 21, 2014 when the claimant quit for the purpose of accepting an offer of other employment which ultimately did not come to be.

When the employer learned that the claimant's employment with the elevator had not come to be on September 4, 2014 the employer's president, John Robson, called and left a message for the claimant offering him the opportunity to return to his employment with the employer. The claimant received the message and understood that it would be at his prior hours and wages. However, he chose not to accept the offer of employment. His reason for not returning to the employment was because he did not wish to have any interaction with a former coworker with whom he had not gotten along during his employment. However, this problem with the coworker was not a reason that he had left the employment and he had not discussed the problem with the coworker with the employer.

Since September 4, 2014 the claimant has received unemployment insurance benefits in the amount of \$1316.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant refused a suitable offer of work.

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.

Rule 871 IAC 24.24(14) provides:

Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)“b” are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

[Emphasis added.]

There was a bona fide offer of work by the employer to the claimant on September 4; the claimant received the offer. The offer to return to his prior hours and wages was a suitable offer of work. He consciously decided not to accept the offer, constituting a refusal of the offer. His reason for refusing was the concern about his issues with the former coworker. However, this was not a condition which had caused the claimant to previously quit the employment nor had he previously addressed the issue with the employer. His refusal was not for good cause and results in a disqualification. As of September 4, 2014 benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is then otherwise eligible.

Because the claimant’s refusal of a suitable offer of work was disqualifying, benefits were paid to which the claimant was not entitled. Iowa Code § 96.3-7. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative’s September 16, 2014 decision (reference 03) is reversed. The claimant refused a suitable offer of work without good cause. As of September 4, 2014 benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is then otherwise eligible. The claimant is overpaid in the amount of \$1316.00

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

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