

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRET A STUBBLEFIELD
Claimant

APPEAL NO. 10A-UI-10866-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPHERION STAFFING LLC
Employer

OC: 06/13/10
Claimant: Respondent (1)

Section 96.5-3-a - Failure to Accept Suitable Work
Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 27, 2010, reference 02, that concluded the claimant was not disqualified for failing to accept an offer of work. A telephone hearing was held on September 22, 2010. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Shonoa Lemke participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant fail to accept an offer of suitable work without good cause?
Was the claimant able to and available for work?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer on an assignment at Genco Company from September 30, 2008, to June 14, 2010, when the assignment was ended. His rate of pay was \$10.75 per hour.

The claimant filed a new claim for unemployment insurance benefits with an effective date of June 13, 2010. His average weekly wage based on the highest quarter of wages in his base period was \$357.40 or (\$8.94 per hour).

On June 24, 2010, Shonoa Lemke, the client services supervisor offered the claimant a full time job at CCB Packaging Inc. in Hiawatha, Iowa. The starting rate of pay was \$7.25 per hour, but increased to \$8.00 per hour for perfect attendance during the week.

The claimant told Lemke that he would get back to her about the job, but he never contacted the employer again about the job offer.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

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....

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.

Iowa Code section 96.4-3 requires claimants to be able to work, available for work, and earnestly and actively seeking work.

The claimant is not subject to disqualification under Iowa Code section 96.5-3-a or 96.4-3. The work offered does not meet the wage standard of Iowa Code section 96.5-3-a and there is no evidence that the claimant is unavailable for work based on the facts presented here.

DECISION:

The unemployment insurance decision dated July 27, 2010, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs