

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW PRUISMANN
Claimant

APPEAL NO: 13A-UI-11365-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

AUTOMATIC MACHINE PRODUCTS INC
Employer

OC: 11/11/12
Claimant: Respondent (4)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 4, 2013, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 1, 2013. The claimant participated in the hearing. Dave Perin, President and Melissa McVicker, Office Manager, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The employer made an offer of work to the claimant on September 12, 2013, recalling him to return to work September 16, 2013. That offer included the following terms: As a full-time machine operator, working from 7:00 a.m. to 3:00 p.m. earning \$15.50 per hour. The claimant had held that position since February 15, 2010. The claimant's average weekly wage is \$732.00. The offer was made in the claimant's third week of unemployment. The employer agrees the claimant should receive benefits for the first three weeks of the layoff but is contesting benefits beginning the week ending September 21, 2013. The claimant agrees he received the offer of work and chose not to accept it.

REASONING AND CONCLUSIONS OF LAW:

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

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.

The offer was suitable as it met all the work duty, wage and hour requirements and the claimant did not have a good-cause reason for the refusal. The employer agrees the claimant is eligible to receive three weeks of benefits due to the layoff. Both parties agree the claimant is not eligible beyond that time frame. Benefits are allowed for the three weeks ending September 21, 2013, but the claimant is ineligible for this separation beyond that date.

DECISION:

The October 4, 2013, reference 01, decision is modified in favor of the employer. The claimant did refuse a suitable offer of work. Benefits are allowed for the three weeks ending September 21, 2013. Benefits are withheld after that date until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs