

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GALVIN L NELSON
Claimant

C & W DOCKS LLC
Employer

APPEAL 19A-UI-07339-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/04/19
Claimant: Appellant (2)

Section 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Galvin Nelson (claimant) appealed a representative's September 13, 2019, decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he refused suitable work with C & W Docks (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 8, 2019. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant refused suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer until February 2018, as a full-time dock builder. After his separation, no offer of work was made to the claimant. The claimant has placed no restrictions on his work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant did not refuse an offer of suitable work.

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.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The employer did not participate in the hearing and did not provide any proof that an offer of work was made to the claimant. There was no evidence of any restriction or limitation on employability. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's September 13, 2019, decision (reference 02) is reversed. There is no proof that an offer of work was made to the claimant. The claimant is able and available for work. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs