

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRUCE A KAMP
Claimant

APPEAL NO: 13A-UI-10933-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KASTIM CORPORATION
Employer

OC: 09/08/13
Claimant: Respondent (1)

Iowa Code § 96.3(5) – Refusal of Suitable Work

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's September 20, 2013 determination (reference 01) that held the claimant qualified to receive even though he declined the employer's September 2 offer of work. The claimant participated in the hearing. Sue McEnroe, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Should the claimant be disqualified from receiving benefits after he declined the employer's September 2 offer to work at another location?

FINDINGS OF FACT:

The claimant started working for the employer in November 2012. He worked 30 to 35 hours a week as a maintenance employee at the employer's Algona location. He usually worked 5 or 6 a.m. to 2 p.m.

In June 2013, the employer informed the claimant and other employees that the Algona restaurant was going to be rebuilt and closed for three to four months. The employer planned to let employees temporarily work at other restaurants in Fort Dodge, Emmetsburg or Estherville while the Algona restaurant was temporarily closed.

The Algona restaurant closed on September 2 or 3. The employer asked the claimant in early September if he would work at one of the employer's other restaurants. He would have worked the same number of hours and received the same hourly wage. Fort Dodge, Emmetsburg or Estherville are two to three times farther away than Algona from the claimant's residence. The employer talked to employees about carpooling and agreed to pay the person driving in a car pool an extra \$10 a day.

The claimant declined the employer's offer to work at another location while the Algona restaurant was closed. The employer plans to reopen the Algona restaurant on December 19, 2013. The claimant plans to return to work when the restaurant reopens.

The claimant did not have an established claim for benefits until the week of September 8, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he declines an offer of suitable work without good cause. Iowa Code § 96.5(3)a. Before a claimant can be disqualified from receiving benefits, the law requires that both the offer and the refusal must occur within the claimant's benefit year. 871 IAC 24.24(8).

The claimant did not have an established benefit year until the week of September 8 or when the employer offered him a temporary job at another location. The claimant is not disqualified from receiving benefits for declining the employer's offer to work at another location when the Algona restaurant was closed for three to four months. The claimant remains qualified to receive benefits as of September 8, 2013.

DECISION:

The representative's September 20, 2013 determination (reference 01) is affirmed. The employer offered the claimant a job at another location and the claimant declined the offer work of work before he had an established claim for benefits. Therefore, the claimant remains qualified to receive benefits as of September 8, 2013, provided he meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs