

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN T RUSSELL
Claimant

APPEAL NO. 11A-UI-02808-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNIFIED CONTRACTING SERVICES INC
Employer

**OC: 01/16/11
Claimant: Respondent (1)**

Section 96.5-3-a – Refusal of Work

STATEMENT OF THE CASE:

Unified Contracting Services Inc. filed a timely appeal from a representative's decision dated March 2, 2011, reference 01, that held claimant eligible to receive unemployment insurance benefits. After due notice was issued, a telephone hearing was held March 30, 2011. The claimant participated personally. The employer participated by Mr. John French, Vice President Marketing.

ISSUE:

At issue is whether the claimant refused an offer of work with good cause.

FINDINGS OF FACT:

Dustin Russell was employed by Unified Contracting Services Inc. as a full-time construction worker/welder until February 2010 when he was laid off work by the company. Subsequently Mr. Russell found new employment. Most recently Mr. Russell was temporarily laid off from his employment with Adkelson Sheet Metal Company, however, Adkelson Sheet Metal Company verified to Workforce Development that the claimant was to be recalled to work with that company in the future. Mr. Russell was not required to seek employment with other employers because he was determined to be attached to Adkelson Sheet Metal and would be recalled.

On January 24, 2011 Unified Contracting Services offered the claimant work in his same capacity as a welder/construction worker. Mr. Russell refused as he was waiting to be recalled to Adkelson Sheet Metal. The claimant has been recalled to work at the time of hearing and will resume employment with Adkelson Sheet Metal effective April 4, 2011.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant refused with good cause an offer of suitable work. He has.

Iowa Code section 96.5-3-b 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.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

The evidence in the record establishes that Mr. Russell has accepted subsequent employment after being laid off from Unified Contracting Services Inc. and that the claimant was temporarily laid off from his most recent employment with Adkelson Sheet Metal Company. Adkelson Sheet Metal indicated that the claimant was still attached to the company and would be recalled in the future.

Because the claimant was on a short-term layoff at Adkelson Sheet Metal Company and reasonably believed that he was going to be recalled in the near future, the claimant has established good cause for failing to accept an offer of work with Unified Contracting Services Inc. Benefits are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated March 2, 2011, reference 01, is affirmed. The claimant has established good cause for refusing work. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of the law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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