

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS J VALENTINE
Claimant

APPEAL NO. 12A-UI-02231-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONNERLEY CONSTRUCTION LLC
Employer

OC: 09/18/11
Claimant: Respondent (1)

871 IAC 24.24(1)a – Offer of Work

STATEMENT OF THE CASE:

Connerley Construction filed a timely appeal from a representative's decision dated March 2, 2012, reference 04, which held the claimant eligible to receive unemployment insurance benefits, finding that an actual offer of work was not made to the claimant on December 22, 2011. After due notice was issued, a telephone hearing was held on March 21, 2012. Although duly notified, the claimant did not participate. The employer participated by Mr. Allen Connerley, company owner.

ISSUE:

At issue is whether a bona fide offer of work was made to the claimant.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Thomas Valentine was most recently employed by Connerley Construction until October 28, 2011, when he was laid off due to lack of work. On December 22, 2011, Mr. Connerley attempted to contact the claimant to offer him work but was unable to directly reach Mr. Valentine. The employer left a telephone message. Based upon information that Connerley Construction has received, the company believes that Mr. Valentine is engaged in self-employment and is not available for work and should not be eligible to receive unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge in this case is whether the evidence in the record establishes that a bona fide offer of suitable work was made to the claimant. It does not.

871 IAC 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 evidence in the record establishes there was not personal contact between Connerley Construction and Thomas Valentine on or about December 22, 2011. The evidence also establishes that the employer did not attempt to recall the claimant to work by sending the claimant a registered letter to ensure that the claimant was aware of the offer.

Based upon the application of the facts to the law, the administrative law judge concludes that because of the failure of the employer to make direct contact with the claimant or, in the alternative, to send a registered letter recalling the claimant to work, it has not sustained its burden in establishing that an actual offer of work was made and refused by the claimant. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

The employer in this matter contends that Mr. Valentine is engaged in full-time self-employment and that the claimant's self-employment directly affects the claimant's availability for work. The administrative law judge concludes that this issue may be a subject for investigation and determination by the Unemployment Insurance Services Division of Iowa Workforce Development.

DECISION:

The representative's decision dated March 2, 2012, reference 04, is affirmed. The claimant is eligible to receive unemployment insurance benefits as long as he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw