

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN ALLBRIGHT
Claimant

APPEAL NO. 13A-UI-04331-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 07/15/12
Claimant: Appellant (2)

Section 96.4-3 – Able and Available
Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 3, 2013, reference 04, which concluded that the claimant refused an offer of suitable work. A telephone hearing was held on May 20, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Amy Becker participated in the hearing on behalf of the employer.

ISSUE:

Whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment and staffing agency. The claimant has taken temporary assignments from the employer since 2010. His last assigned was from September 7, 2012, through March 2, 2013. The claimant was a forklift operator. The claimant worked upwards of 60 to 70 hours per week during the season and tapered off to about 40 or 44 hours per week. He earned \$13.00 per week. He was offered a job on March 5, 2013, for 40 hours per week at \$11.00 an hour. Although the claimant initially accepted the job, he never showed up for work.

The claimant established his original claim for benefits on July 15, 2012. He filed his additional claim for benefits on March 16, 2013.

REASONING AND CONCLUSIONS OF LAW:

The claimant is eligible for benefits. The representative incorrectly applied the percentage criteria of Section 96.3-3-a to the original or new claim for benefits and not the date of the claim for additional benefits. A new claim starts a benefit year. Anytime a person works during the benefit year and separates from that employment, they are required to file an additional claim

for benefits. 871 IAC 24.1(25). 871 IAC 24.24(15)i requires the agency to apply the percentage criteria of 96.3-3-a based on the number of weeks from the date of the most recent new or additional claim. In this case, the percentage criteria that should be applied is the date of his additional claim of March 16, 2013. The offer of employment is not considered suitable when the correct date is used.

DECISION:

The unemployment insurance decision dated April 3, 2013, reference 04, is reversed. The claimant did not refuse an offer of suitable work.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css