

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDWARD S BARTELS

Claimant

APPEAL NO. 12A-UI-14968-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMPLETE BUILDING SERVICES INC

Employer

OC: 06/03/12

Claimant: Appellant (1)

Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated December 17, 2012, reference 03, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 24, 2013. Although the claimant responded to the hearing notice, he did not answer his phone when called by the administrative law judge. A detailed message was left on how to participate in the hearing. The claimant did not call prior to closing the record. The employer participated by Jackie Burken, Owner. The record consists of the testimony of Jackie Burken. Official notice is taken of agency records.

ISSUE:

Whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

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

The employer provides janitorial services. The claimant applied for work with the employer. A job offer was made to the claimant on November 20, 2012, by telephone call between Jackie Burken, one of the owners, and the claimant. The claimant accepted the job. The job was a full-time job for 40 hours per week at \$9.00 per hour. The claimant would receive a \$.50 per hour raise after 60 days.

The claimant showed up for work on November 21, 2012. He was trained to work at a food processing plant. He was required to wear a beard net. The claimant worked for two hours and was supposed to go to another site. He did not show up at the other site. The employer tried to get ahold of the claimant. He finally contacted the employer and said that he could not work at a job that required him to wear a beard net.

The claimant's gross weekly wage of his average weekly wage paid during the highest quarter of his base period was \$360.14. He originally established his claim on June 3, 2012.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-3-a 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.

a. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

The claimant is not eligible for unemployment insurance benefits. The claimant was given a bona fide offer of work on November 20, 2012, and this job was offered after the eighteenth week since he had filed his most recent new claim on June 3, 2012. The gross weekly wage was \$360.00 and was virtually the same amount as his average weekly wage paid during the highest quarter of his base period. The claimant refused this offer of work because he did not want to wear a beard net. This is not good cause to refuse an offer of suitable work. Benefits are denied.

DECISION:

The decision of the representative dated December 17, 2012, reference 03, is affirmed. The claimant refused an offer of suitable work on November 21, 2012.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/tll