

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NEIL E CARR
Claimant

APPEAL NO: 12A-UI-05497-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

**OC: 11/27/11
Claimant: Appellant (4/R)**

Iowa Code § 96.5(3)a – Refusal of Suitable Work Offer

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 3, 2012 determination (reference 02) that disqualified him from receiving benefits as of January 10, 2012, because he refused the employer's offer of suitable work. The claimant participated in the hearing. Danielle Aeshilman, the operations 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 not qualified to receive benefits as of January 15, 2012.

ISSUES:

Was the claimant able to and available for work when the employer offered him work?

Did the claimant refuse an offer of suitable work with good cause?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of November 27, 2011. The claimant's average weekly wage in the highest quarter of his base period is \$368.86.

The claimant registered to work for the employer's business clients. The employer assigned the claimant to a job in Grinnell, Iowa, on January 3, 2012. The job paid \$9.50 an hour.

After the claimant inadvertently broke open two bags of corn at work, the employer's business client asked the claimant to submit to a drug test. The claimant took the requested test.

The last day the claimant worked at the Grinnell facility was January 10, 2012. After the claimant finished working his shift, he received a phone call from the employer stating he was no longer needed at the Grinnell assignment. The employer understood the Grinnell facility had to lay off some workers.

On January 12, Aeshilman called the claimant and talked to him about working for the same company but at its Newton facility, not the Grinnell facility. The job started immediately and paid \$10 an hour. This job was a long-term job and had the potential for more overtime work.

The claimant heard rumors that Grinnell employees thought he had not passed the drug test. When the claimant could not obtain a copy of his drug test results to show Grinnell employees he had a negative test from the Grinnell facility, he declined to accept a job with the same company in Newton.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he refuses an offer of suitable work without good cause. Iowa Code § 96.5(3)a. Before a claimant can be disqualified for refusing an offer of suitable work, the evidence must establish that he is able to and available for work. 871 IAC 24.24(4). The facts establish the claimant was able to and available for work when the employer offered him a job on January 12, 2012.

Factors that must be considered to determine if a job is suitable include: the risk involved to the claimant's health, safety, and morals, the claimant's physical fitness, prior training, length of unemployment, prospects for securing local work, the distance between the work offered and the claimant's residence and if the wages offered meet the criteria set forth in the law. Iowa Code § 96.5(3)a.

The claimant declined the offer of work in Newton where he lived at \$10 an hour because he would be working for the same company who would not give him a copy of his drug test results. The claimant wanted to stop Grinnell employees from saying he had been discharged because he failed the drug test. Since the client allowed the claimant to work at its Newton facility, reasonable people would realize the drug test the claimant took was negative. While the claimant had personal reasons for declining the offer of work, the work was suitable. The claimant did not establish good cause for declining the employer's offer of work. As of January 15, 2012, the claimant is not qualified to receive benefits.

An issue of overpayment will be remanded to the Claims Section to determine the amount of benefits the claimant has been overpaid since January 15, 2012.

DECISION:

The representative's May 3, 2012 determination (reference 02) is modified in the claimant's favor. The claimant did not establish good cause for refusing the employer's offer of suitable work. Instead of disqualifying the claimant as of January 10, he is disqualified from receiving benefits as of January 15, 2012. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The issue of overpayment of benefits is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs