

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN J WHITE
Claimant

APPEAL NO. 12A-UI-00661-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

J & L CONSTRUCTION LLC
Employer

OC: 12/04/11
Claimant: Appellant (1)

Section 96.5-3 – Refusal of Recall

STATEMENT OF THE CASE:

Stephen J. White filed a timely appeal from an unemployment insurance decision dated January 13, 2012, reference 02, that disqualified him for benefits. After due notice was issued, a telephone hearing was held February 14, 2012, with Mr. White participating. Vice President Jay Peiffer participated for the employer, J & L Construction, LLC.

ISSUE:

Did the claimant refuse recall to suitable work?

FINDINGS OF FACT:

On September 7, or 8, 2011, Jay Peiffer of J & L Construction spoke to Stephen J. White about Mr. White returning to employment following a layoff. Mr. Peiffer proposed that Mr. White return to work on the following Monday, September 12, 2011, but stated that he would find work for Mr. White if he returned sooner. Mr. White, who had recently been in discussions with the Child Support Recovery Unit about lowering his child support payments, told Mr. Peiffer that he would get back in touch with Mr. Peiffer. He did not do so.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. White refused recall to suitable work. The administrative law judge concludes that he did.

The parties expressed differing recollections of their telephone conversations during the week before September 12, 2011. Significantly, Mr. White volunteered the information that he had also been in contact with the Child Support Recovery Unit in an attempt to have his child support obligation reduced. This information calls into question Mr. White's desire to return to work. Moreover, Mr. Peiffer's recollections of the conversations were more detailed than were Mr. White's. The administrative law judge concludes that Mr. Peiffer gave Mr. White a firm date to return to his prior employment. Mr. White elected not to do so. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated January 13, 2012, reference 02, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw