

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT R PARKER**  
Claimant

**APPEAL NO. 09A-UI-11679-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEDICATED LOGISTICS INC**  
Employer

**Original Claim: 07/05/09  
Claimant: Respondent (1)**

Section 96.5-3-a – Refusal of Suitable Offer of Work

**STATEMENT OF THE CASE:**

Dedicated Logistics, Inc. (employer) appealed from a representative's August 5, 2009 decision (reference 01) that concluded Robert R. Parker (claimant) was qualified to receive benefits because the employer's June 27, 2009 offer of work was made when the claimant did not have an unemployment insurance claim established. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 31, 2009. The claimant participated in the hearing. Jesse Kook and Teresa Berry, the human resource director, appeared on the employer's behalf.

At the beginning of the hearing, the employer explained it did not dispute the representative's August 5 decision. Instead, the employer had appealed because the claimant refused the employer's August 6 offer of work. The parties waived notice on this issue. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant refuse the employer's August 6 offer of work without good cause?

**FINDINGS OF FACT:**

The employer does not dispute and did not appeal the August 5, 2009 decision (reference 01) that held the claimant was not disqualified from receiving benefits when he declined the employer's June 27, 2009 offer of work before he had established a claim for benefits. The claimant established a claim for benefits during the week of July 5, 2009.

The claimant worked for the employer since mid-July 2008. He worked as a truck driver on a designated route. The claimant drove a straight truck for the employer until he was laid off from work on June 26, 2009. Although the claimant possesses a Class A driver's license, he has never driven a tractor-trailer for work.

On August 6, 2009, the employer sent the claimant a certified letter and offered the claimant a dedicated route that required him to drive Tuesday through Saturday. The employer offered the

claimant approximately \$166.00 a day, which was based on 12 stops and 346 miles. (Employer Exhibit One.)

The claimant received the employer's August 6 letter on August 7. The claimant recognized the fact the route the employer offered him paid him \$7.00 a day more than he had been making, but required him to drive 166 miles more a day. When the employer offered the claimant this route, the employer knew he had a Class A license. This meant the claimant was licensed to drive a tractor-trailer. When the claimant drove the straight truck, he only had to have a B license.

On August 12, the claimant left a message for the employer and declined the August 6 offer of work. The claimant told the employer he declined the job because he was not qualified to drive a tractor-trailer. Although the claimant has a Class A license, he has never driven a tractor-trailer for work. The claimant did not know the employer had a simulator and that he would be required to pass a road test with a trainer before the employer allowed him to drive a tractor-trailer.

#### **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. In determining whether work is suitable, the following factors must be considered: degree of risk involved to the individuals' health, safety, and morals; the individuals' physical fitness; prior training; length of unemployment; and prospects for securing local work. Iowa Code § 96.5-3-a. If work is offered during the first five weeks of unemployment, the wages offered must equal 100 percent of the claimant's average weekly wage in his highest quarter, but the wage offered must only be 75 percent if work is offered during the 6th through 12th week of unemployment. Iowa Code § 96.3-5-a(1)&(2).

The facts establish the claimant has never driven a tractor trailer for a living, even though he has a Class A license. Since the employer's August 6 offer did not inform the claimant he could use a simulator and would have to pass a road test before the employer allowed him to drive a tractor-trailer, the claimant established he declined the August 6 offer of work with good cause. Therefore, he remains qualified to receive benefits.

If the claimant has not worked since June 27 and the employer makes him another offer of work, the outcome of a subsequent offer may have opposite results than the facts in this decision.

#### **DECISION:**

The representative's August 5, 2009 (reference 01) is affirmed. Both parties waived notice so the employer's August 6 offer of work could be addressed. The claimant established good cause for declining the employer's August 6 offer of work. Therefore, the claimant remains qualified to receive benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw