

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TODD D MOYER
Claimant

APPEAL NO: 09A-UI-07287-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PROLAWN PLUS INC
Employer

OC: 02/01/09
Claimant: Respondent (1)

Section 96.5-3-a – Refusal of Offer to Return to Work

STATEMENT OF THE CASE:

Prolawn Plus, Inc. (employer) appealed a representative's May 7, 2009 decision (reference 01) that concluded Todd D. Moyer (claimant) was not disqualified from receiving benefits as of April 9, 2009, even though he declined the employer's offer to return to work because he was working for another employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 4, 2009. The claimant participated in the hearing. John Robson, the president, appeared on the employer's behalf. 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 decline the employer's offer to return to work with good cause?

FINDINGS OF FACT:

The claimant worked for the employer for more than a year. During the summer months, the claimant did landscaping and in the winter he did snow removal for the employer. The first week of February 2009 was the last time the claimant worked for the employer. The claimant admitted the employer called him to do snow removal at least two times after early February. One time the claimant got stuck in the snow as he attempted to get to work. Another time, the claimant did not recall why he did not remove snow. The employer did not have any information as to when after February 1, the claimant did not work but could have worked.

The claimant looked for another job. The claimant began working for another employer the first week of April 2009. The employer called the claimant on April 9 and asked him to return to work. The claimant declined the employer's offer to return to work because he was working for another employer. The claimant did not file any weekly claims after April 4, 2009.

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 section 96.5-3-a. Since the claimant had

accepted other employment and was working for another employer on April 9, the claimant established good cause for declining the employer's April 9 offer to return to work. The claimant is not disqualified from receiving benefits as of April 9, 2009. But the claimant is not eligible to receive benefits as of April 5, 2009, because he is working for another employer.

During the hearing, the employer raised the issue of the claimant's availability in February and March because the claimant did not work when the employer had work available for him. A general allegation that the claimant did not work when there was work available for him does not establish when the claimant did not work or how many days in a week he did not work. If the employer wants to provide specific detailed information as to when the claimant did not work when the employer had work available, the employer can provide this information to the local Workforce office so the Department can investigate the claimant's availability to work during various weeks in February and March.

DECISION:

The representative's May 7, 2009 decision (reference 01) is affirmed. The claimant had good cause to decline the employer's April 9, 2009 offer to return to work. Therefore, the claimant is not disqualified from receiving benefits as of April 9, 2009. Since the claimant started working for a new employer in early April, he is not eligible to receive benefits as of April 5, and has not filed any weekly claims after April 4.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs