

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN L HURD
Claimant

APPEAL NO. 11A-UI-13351-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MARKS AUTO REPAIR & WRECKER
SERVICE LC**
Employer

**OC: 09/11/11
Claimant: Respondent (1)**

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 4, 2011 (reference 02) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on November 1, 2011. Claimant participated. Employer participated through co-owner/secretary Tammy Marks. The parties waived notice and fact-finding interview on the separation issue, which is decided in 11A-UI-14309-L-T. Employer's Exhibit One was admitted to the record. Claimant's Exhibit A was admitted to the record.

ISSUE:

The issue is whether an offer of work was made, if claimant failed to apply for or refused an offer of suitable work, and if so, whether the refusal was for a good cause reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant and employer had discussed the possibility of claimant purchasing the Nashua shop. The negotiations fell through on September 6, 2011. On September 12 the employer notified the claimant and mechanic Brian Jansen in person that they were closing the Nashua shop on September 13 where claimant was shop manager. Employer made an offer of work to claimant by Ken and Tammy Marks on September 12, 2011. That offer included the following terms: The employer offered him a job as a part-time mechanic. A specific wage was not mentioned but the employer estimated it would have been \$17.00 per hour. Claimant's average weekly wage is \$893.43. The offer was made in the first week of unemployment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work.

Iowa Code § 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 offer was unsuitable, as it did not specify a wage and the estimated wage did not meet the minimum wage requirements set out above for an offer to be considered suitable. Benefits are allowed.

DECISION:

The October 4, 2011 (reference 02) decision is affirmed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs