

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRENT A MANNY**

Claimant

**METROGROUP MARKETING SVCS INC**

Employer

**APPEAL NO. 10A-UI-05469-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/09**

**Claimant: Respondent (1)**

Section 96.5-3-a – Offer of Suitable Work

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from a representative's decision dated March 31, 2010, reference 02, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a hearing was held by telephone on May 17, 2010. The claimant participated personally. The employer participated by Ms. Teri Bocking, Senior Resource Generalist.

**ISSUE:**

The issue is whether the claimant refused a bona fide offer of suitable work.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Brent Manny was most recently employed by Metrogroup Marketing Services, Inc. as a full-time machine operator until December 30, 2009 when the employer laid him off due to a decrease in work orders. The employer tried to reach Mr. Manny by telephone on February 26, 2010 but was unable to reach the claimant. Subsequently the employer called Mr. Manny's brother as well, in an attempt to reach the claimant. On March 1, 2010 a letter was sent to the claimant requesting Mr. Manny to contact the company manager by March 5 to discuss the possibility of the claimant returning to work. Mr. Manny contacted the company's manager by telephone as requested. The employer "expressed an interest" in the claimant's return to work. Mr. Manny desired to check on the effective return to work on his returning with the Workforce Development Act and the parties agreed to discuss the matter further. Mr. Manny attempted to reach the manager on March 10, 2010 but was unable to make contact. When the claimant did not report to work on March 11, 12 and 15, 2010, the employer terminated the employment relationship although the parties had not further discussed the claimant's return to work.

**REASONING AND CONCLUSIONS OF LAW:**

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

871 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The claimant did not receive a bona fide offer of work. Mr. Manny spoke with the company's manager after being sent a letter by the company about his return to work. Mr. Manny testified that Mr. Lungsford "expressed an interest" in the claimant's returning to work but no specifics were discussed about an actual job opening. An actual job offer had not been made at that time. Although the claimant had not been made an actual job offer and no definite refusal had been made, the claimant was nonetheless subsequently informed by letter that because he had not reported he had been separated from employment.

In this case the claimant participated personally and provided sworn testimony. In contrast the employer offered only hearsay in support of its position. While hearsay is admissible in administrative proceedings it cannot be accorded the same weight as sworn direct testimony. The administrative law judge finds the claimant's testimony to be credible and not inherently improbable.

Based upon the evidence in the record and the application of the appropriate law the administrative law judge concludes that Mr. Manny did not refuse a bona fide offer of work to an actual job opening. Benefits are allowed providing the claimant meets all other eligibility requirements of Iowa law.

**DECISION:**

The representative's decision dated March 31, 2010, reference 02, is affirmed. The claimant is eligible to receive unemployment insurance benefits, provided he meets all eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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