

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TERRANCE J MCDERMOTT
Claimant

L A LEASING INC
SEDONA GROUP
Employer

APPEAL 14A-UI-11804-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/15/13
Claimant: Appellant (1)

Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 3, 2014, (reference 05) unemployment insurance decision that denied benefits based upon a failure to accept work. The parties were properly notified about the hearing. A telephone hearing was held on December 5, 2014. Claimant participated. Employer participated through unemployment benefits administrator, Colleen McGuinty and on-site manager, Dennis Leaser.

ISSUES:

Did claimant fail to accept a suitable offer of work and if so, was the failure to do so 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: Leaser made an offer of work to claimant by personal contact on October 16, 2014, to begin October 17. That offer included the following terms: full-time (40 hours per week) as a general laborer at Nordstrom. Claimant had worked there before for the employer. The wage offered for the job is \$9.00 (\$360.00 per 40-hour week), which is comparable to the prevailing rate of pay for similar work in the Quad Cities area. Claimant's average weekly wage is \$304.04. The offer was made in the second week of unemployment in the additional claim. Claimant asked if the job paid \$10.00 per hour yet. When Leaser said no, claimant declined, telling Leaser to call him back another five weeks into his claim for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept 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 suitable as it offered more than his average weekly wage in the second week of the additional claim. His refusal because it did not pay \$10.00 per hour was not a good cause reason for the failure to accept it.

DECISION:

The November 3, 2014, (reference 05) decision is affirmed. Claimant failed to accept a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css