

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**NOBLE J MURREN**  
Claimant

**APPEAL NO: 19A-UI-00664-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELITE STAFFING GLOBAL INC**  
Employer

**OC: 06/24/18**  
**Claimant: Respondent (1)**

Section 96.5(3)a – Work Refusal

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 18, 2019, reference 08, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 12, 2019. The claimant did not respond to the hearing notice and did not participate in the hearing. Kathy Achenbach, Branch Manager and Joseph McDonnell, Employer Representative, participated in the hearing on behalf of the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant's first shift assignment at Dolton Ag in Lennox, Iowa, ended December 7, 2018, and he contacted the employer December 10, 2018, seeking other employment which was within the employer's three day policy. The employer made an offer of work to the claimant on December 10, 2018. That offer included the following terms: An assembly packaging position at Michael Foods in Lennox, Iowa, working 4:30 p.m. to 12:00 a.m. earning \$13.50 per hour. The claimant's average weekly wage is \$836.00. The offer was made in the first week of unemployment. The claimant initially accepted the offer but called the employer back 30 minutes later to state he had a court ordered class on Tuesday nights and asked if the employer could accommodate his class. The employer stated it would not and the claimant said he would have to decline the position.

**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.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) 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 meet the minimum wage requirements set out above for an offer to be considered suitable. Additionally, the claimant worked first shift at his previous position and was able to attend his court-ordered class on Tuesday nights. The job offered was a second shift position and would have interfered with that mandatory class. Under these circumstances, the administrative law judge finds the claimant did have a good-cause reason for refusing the offer of December 10, 2018. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The January 18, 2019, reference 08, decision is affirmed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn