

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSE FRANCO
Claimant

APPEAL 22A-UI-03849-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA BRIDGE & CULVERT LC
Employer

**OC: 12/26/21
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

On January 21, 2022, the employer, Iowa Bridge & Culvert LC, filed an appeal from the January 12, 2022, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 9, 2022. Claimant, Jose Franco, participated and testified. Employer participated through Dave Price, Human Resources. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an original claim for benefits with an effective date of December 19, 2021. Claimant last worked as a full-time laborer. The claimant is subject to temporarily lay-offs due to lack of work at various times during the claimant's benefit year. The employer expressed concern that the claimant was paid for PTO for the time period between December 28, 2020, through December 31, 2020, and should not have received regular unemployment benefits for that time period.

The claimant's DBIN and DBRO screen detail the following:

During the claimant's benefit year with an original claims date of December 20, 2020, the claimant's DBIN screen details the following:

DBIN/					OFC 10-03-0830-19-139	03/15/22	PAGE 2			
		CHECK-DIGIT=	3							
PAYMENT-RECORDS . .					***** UI *****	***** FE *****				
BWE-DATE	RPT-CODE	AMT-RP	ISSUE-DT	P	PAY-CODE	AMOUNT	PAY-CODE	AMOUNT	PGM	TR
02/06/21	OVER15	900.00	03/01/21	2	PAID-W	.00		.00	01	
02/13/21	CLEAR	.00	03/01/21	2	PAID-DC	605.00		.00	01	

Claimant filed for benefits for the benefit weeks ending February 6, 2021 thru February 13, 2021. The claimant only received regular unemployment benefits during the 20/21 claim year in the amount of \$605.00. The claimant did not file for or receive regular unemployment benefits for the week ending January 2, 2021, which is the employer's stated reason for appeal and protest.

During the benefit year with the original claims date of December 26, 2021, the claimant's DBRO screen details the following:

DBRO/					OFC 10-03-0830-19-139	03/15/22		PAGE 2
		CHECK-DIGIT=	3					
PAYMENT-RECORDS . .					***** UI *****	*****	FE *****	
BWE-DATE	RPT-CODE	AMT-RP	ISSUE-DT	P	PAY-CODE	AMOUNT	PAY-CODE	AMOUNT PGM TR
01/01/22	CLEAR	.00	01/21/22	4	PAID-DC	651.00		.00 01
01/08/22	OVER15	300.00	01/21/22	4	PAID-DC	513.00		.00 01

Claimant to date has only filed for benefits for the two-week period ending January 8, 2022. The claimant has been paid to-date \$1,164.00 in regular unemployment benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

Iowa Admin. Code r. 871-24.24(8) provides:

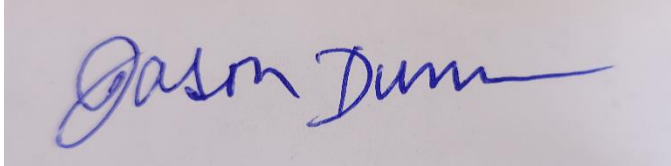
(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The claimant did not fail to refuse a suitable offer of work because none was made nor is that issue relevant for the original claims date of December 26, 2021. As such any refusals that may

or not have occurred prior to December 26, 2021, is beyond the administrative law judge's jurisdiction and no disqualification can be imposed.

DECISION:

The January 12, 2022, reference 01, unemployment decision allowing benefits is affirmed. The issue of whether the claimant failed to accept a suitable offer of work occurred outside of the claimant's benefit year and the administrative law judge lacks jurisdiction on this issue.



Jason Dunn
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

March 28, 2022
Decision Dated and Mailed

jd/mh