

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**BRADLEY J BARRINGER**  
Claimant

**ABC CRANE CO**  
Employer

**APPEAL 17A-UI-03051-JCT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/08/17**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 13, 2017, (reference 01) unemployment insurance decision that denied benefits based upon a refusal to accept an offer of work. The claimant was properly notified about the hearing. A telephone hearing was held on April 12, 2017. The claimant participated. The employer did not respond to the notice of hearing and did not register to participate. Department Exhibit D-1 was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the 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: The claimant previously worked for this employer for a period of seven years. The employer/owner is also the claimant's father, Troy Barringer. The claimant quit the employment previously as a laborer making \$20.00 per hour after the employer took \$12,000.00 out of the claimant's bonus, without notification, citing to "rent", and after taking away the claimant's vacation days and 401K option.

On February 12, 2017, during the claimant's seventh week of unemployment, he was offered a position back as a laborer performing dirt work/excavating for \$22.00 per hour, on a job site in Indiana, to begin as soon as possible. The offer was made via text message and through phone calls with Troy Barringer. That offer included the following terms: full-time, seven days per week, off site in Indiana. The wage offered for the job is \$22.00, which is comparable to the prevailing rate of pay for similar work in the area. The claimant's average weekly wage is \$749.00. The offer was made in the 7th week of unemployment. The claimant had a valid claim

for unemployment insurance benefits at the time. The claimant met with Troy Barringer and determined based on prior conditions, which had not been resolved, that he would decline the offer of work. He was otherwise able and available to accept full-time employment without restriction.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes offer of work communicated with the claimant was unsuitable.

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. (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.

871 IAC 24.24(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

Working with family members can pose unique challenges in the workplace, where the lines of professional and personal relationships understandably can become blurred. Such is the case here, where the claimant worked for his father, the owner of this employer for a period of seven years until he quit the employment. The claimant quit after being stripped of his 401K, vacation, and without agreement by the claimant, deducted \$12,000.00 from the claimant's compensation citing to "rent" fees. When the employer attempted to recall the claimant for a new period of employment, the same conditions under which he quit, were present and no evidence was presented that the employer intended to reinstate the vacation, 401K program, or reimburse the claimant \$12,000.00. The employer did not attend the hearing to refute the claimant's credible testimony.

Based on the evidence presented, the administrative law judge concludes that the offer made by the employer was unsuitable, as the conditions which caused the claimant to quit are still in existence. The claimant has established a good cause reason to decline the offer of work. Benefits are allowed, provided he is otherwise eligible.

**DECISION:**

The March 13, 2017, (reference 01) decision is reversed. The offer of work was not suitable in accordance with Iowa Code § 96.5(3)a. Benefits are allowed, provided claimant is otherwise eligible.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/rvs