

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANCIS P JEWETT
Claimant

APPEAL NO. 09A-UI-06671-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

OC: 01/04/09
Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 24, 2009, reference 03, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on May 27, 2009. Claimant did not respond to the hearing notice instructions and did not participate. Employer participated through Darlene Hughes.

ISSUE:

The issue is whether claimant refused a suitable offer of work and if so, whether the refusal was 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: Employer made an offer of work to claimant in a certified letter received on March 11, 2009. That offer included the following terms: immediate start, first shift, \$9.75 per hour (\$390.00 per week), full-time material handler at Pearson's. On April 24 he received a certified letter offering work at North American Nutrition at \$11.70 per hour (\$468.00 per week) for full-time production work. (The April 24 offer is the subject of the reference 04 fact-finding interview and representative's decision and is not decided here.) Claimant's average weekly wage (AWW) is \$533.02. Seventy-five percent of the AWW is \$399.65 and seventy percent of the AWW is \$373.11. The offers were made in the tenth and sixteenth weeks of unemployment respectively. The wages offered for these jobs are comparable to the prevailing rate of pay for similar work in the Cedar Rapids area. He did not respond to either offer and has had no contact with employer since January 9, 2009.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse 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 unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Benefits are allowed.

DECISION:

The April 24, 2009, reference 03, decision is affirmed. Claimant did not refuse a suitable offer of work on March 11, 2009. Benefits are allowed, provided he is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css