

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ISAIAH PETERSON

Claimant

APPEAL NO: 13A-UI-09263-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 03/17/13

Claimant: Appellant (1)

Iowa Code § 96.5-3-a - Refusal of Suitable Work

Iowa Code § 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

Isaiah Peterson (claimant) appealed an unemployment insurance decision dated June 20, 2013, reference 03, which held that he was not eligible for unemployment insurance benefits because he refused an offer of suitable work from Express Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 23, 2013. The claimant participated in the hearing. The employer participated through Staffing Consultants Angie Harris and Bonnie Hruska. Exhibit D-1 was admitted into evidence.

ISSUE:

The issue is whether the claimant's appeal is timely, and if so, whether he refused a suitable offer of work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: A disqualification decision was mailed to the claimant's last-known address of record on June 20, 2013. The claimant did not receive the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 30, 2013. The appeal was not filed until August 8, 2013, which is after the date noticed on the disqualification decision.

The claimant worked for the employer on a temporary assignment earning \$10.50 per hour from November 26, 2012 to May 22, 2013. He spoke with Staffing Consultant Bonnie Hruska on May 22, 2013 and she offered him a job with Graham on first shift which paid \$11.00 per hour. The claimant said he was going to verify with daycare and would be back to update the drug screen. Ms. Hruska spoke with him again on May 24, 2013 around 2:00 p.m. and told him they needed to know that day whether he wanted the job. The claimant's relatives work at Graham and they advised him that Graham wanted permanent employees but that if he was hired on after 30 days, he would have to work second or third shifts. The claimant asked Ms. Hruska if that was the case and she said that if he wanted permanent employment, it might go to an

off-shift but that was only if the company wanted to hire him down the road and that was not the offer they were providing to him at that time. He could continue working for Graham as a temporary employee for years and there was no guarantee he would be offered permanent employment by Graham.

Ms. Hruska also offered the claimant a first shift position at Curries which paid \$11.00 per hour as well. She advised him that she needed an answer by 3:00 p.m. that day and if he did not respond, it would be considered a job refusal and his unemployment benefits would be affected. The claimant called at 2:17 p.m. and declined both job offers.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not receive the decision within the ten-day time period allowed for the appeal. He did file an appeal promptly after receiving information he had been disqualified. Therefore, the appeal shall be accepted as timely.

The substantive issue to be determined in this case is whether the claimant unreasonably refused a suitable offer of work. A claimant is not qualified for unemployment compensation benefits if he refused a suitable offer of work without good cause. To be suitable, an offer of work must pay wages that are 100 percent of the claimant's average weekly wages in his highest quarter when work is offered during the first five weeks of unemployment. See Iowa Code § 96.5-3-a. Additionally, both the job offer and the job refusal must occur within the claimant's benefit year before disqualification can be imposed. 871 IAC 24.24(8).

In the case herein, the claimant's average weekly wage is \$131.27 and the job offer would have paid a weekly wage of \$440.00. Inasmuch as the claimant was offered employment which exceeded his average weekly wage paid during the highest quarter of his base period, the work offered by the employer is suitable work within the meaning of the law. His refusal to accept the job offer because of what he believed the contract employer might offer him if he was offered a permanent position, had nothing to do with the offer of employment by this employer. Since the claimant did refuse a suitable offer of work, he is disqualified and benefits are denied.

DECISION:

The claimant's appeal is timely. The unemployment insurance decision dated June 20, 2013, reference 03, is affirmed. The claimant did refuse a suitable offer of work. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs