

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS E HUGGINS
Claimant

APPEAL NO. 08A-UI-09830-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 08/17/08 R: 02
Claimant: Respondent (2)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

DES Staffing Services, Inc. (employer) appealed a representative's October 22, 2008 decision (reference 03) that concluded Thomas E. Huggins (claimant) was qualified to receive benefits even though he declined the employer's offer of work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 10, 2008. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Amy MacGregor and Ashley Leydens appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant refuse an offer of suitable work without good cause?

Is the claimant able to and available for work as of September 2, 2008?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant registered to work for the employer on September 24, 2007. The employer assigned and the claimant has worked at a meatpacking plant and at an automotive plant. The claimant's last assignment ended July 18, 2008. He received \$7.25 per hour at his last job.

On about September 4, the employer offered the claimant an assignment at a business located in West Des Moines. This job was a temp-to-hire job and paid \$8.50 an hour. The job was for third shift and the claimant had the ability to do the work. The location was on a bus line so the claimant could take a bus to work. The claimant declined this job offer because he did not want to work in West Des Moines.

The employer offered the claimant another assignment and understood the claimant would begin this job September 16. This job paid \$8.50 and was at Osceola Foods. Although the

claimant agreed to work at this assignment, the claimant did not report to work at Osceola Foods on September 16, 2008.

The claimant established a claim for benefits during the week of August 17, 2008. He filed claims for the weeks ending September 13 through November 1, 2008. He received his maximum weekly benefits amount of \$218.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he refuses an offer of work without good cause. Iowa Code § 96.5-3-a. Since the claimant did not participate in the hearing, there is no evidence that he was unable to or unavailable for work as of September 4, 2008. The job the employer offered to the claimant on September 4 was suitable for the claimant. Based on the evidence presented during the November 10 hearing, the claimant refused the employer's September 4 offer of suitable work without good cause. As of September 7, the claimant is not qualified to receive benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. Since the claimant is disqualified from receiving benefits as of September 7, the claimant is not legally entitled to receive benefits for the weeks ending September 13 through November 1, 2008. The claimant has been overpaid \$1,744.00 in benefits he received for these weeks.

DECISION:

The representative's October 22, 2008 decision (reference 03) is reversed. The claimant refused an offer of suitable work without good cause. Therefore, as of September 7, 2008, he is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant has been overpaid and must repay a total of \$1,744.00 in benefits he received for the weeks ending September 13 through November 1, 2008.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css