

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARAMIE C ZENT
Claimant

APPEAL NO. 10A-UI-11198-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CURWOOD INC
Employer

OC: 07/11/10
Claimant: Appellant (2)

Section 96.5-3-a – Offer/Refusal Suitable Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated August 9, 2010, reference 04, which denied benefits finding the claimant refused a recall to suitable work on July 14, 2010. After due notice, a telephone hearing was held on September 23, 2010. The claimant participated personally. The employer participated by Kimberly Griffith and Yvonne Lusk. Claimant's Exhibits A through F and Employer's Exhibit One were received into evidence.

ISSUE:

The issue is whether the claimant refused a bona fide offer of suitable work.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Laramie Zent was employed as a full-time quality assurance tester for Curwood, Inc. from March 1, 2010 when the company was acquired by new owners until June 14, 2010 when he was terminated from employment for excessive absenteeism. On that date the claimant received a notice of discipline from the company signed by the claimant's supervisor as well as Mr. Zent with a portion of the form indicating termination marked by the employer. (See Exhibit D)

After being discharged Mr. Zent made an effort to have the termination decision rescinded by the employer and filed an internal appeal for that purpose. On June 21, 2010, the claimant met with the company's plant manager and the employer agreed to allow Mr. Zent to resubmit FMLA documentation. The employer indicated that they would await the documentation then later make a decision about re-employing Mr. Zent. Mr. Zent resubmitted medical documentation and awaited a decision from the company. During this time Mr. Zent was unemployed and was not being paid by Curwood, Inc.

On July 14, 2010, Ms. Griffith left a voice message on the claimant's answering machine indicating the employer's hopes that the claimant would be returning to work and asking Mr. Zent to return the call. Mr. Zent received the message and in turn left a message for Ms. Griffith referencing the employer's request for more medical information stating based upon

his 35 days of unemployment and the cost to his family that it was his intention to look for new employment.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant refused a bona fide offer of suitable work. It does not.

The evidence in the record establishes that Mr. Zent was not temporarily laid off from this employer but in fact was discharged from employment on June 14, 2010 when the claimant was informed at a meeting that he was being discharged and company documentation reflected "termination." (See Exhibit D) The evidence further establishes that Mr. Zent made repeated efforts to have his termination rescinded and that a substantial period of time had elapsed when the claimant was not being paid by the company while the employer considered the claimant's request to be re-employed.

On July 14, the employer did not directly contact Mr. Zent or speak with him but instead a voice message was left. Mr. Zent interpreted the contents of the voice message to mean that his re-employment with the company was still to some extent uncertain. When the claimant attempted to return the call and was unable to reach Ms. Griffith, he stated that based upon the length of the time that he had been discharged by the company and the cost to his family that he in effect did not intend to provide any more documentation but was going to look for other employment.

871 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The administrative law judge concludes based upon the evidence in the record that the claimant did not refuse a bona fide offer of suitable work. The evidence in the record establishes that there was no personal contact established between the employer representative and Mr. Zent offering him work or that a registered letter was sent to the claimant offering an actual job opening in lieu of personal contact required by 871 IAC 24.24(1)a. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated August 9, 2010, reference 04, is reversed. Claimant did not refuse a bona fide offer of suitable work on July 14, 2010. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs