

Ron Pothoff, co-owner of Miracle, met with claimant during the first week of January 2005 and offered him continued employment "as normal." Claimant replied that he would think about it but probably would since he had no other plans. (Employer's Exhibit B) At a meeting on January 25, 2005, Hoftender offered all employees continued employment under the same terms as provided by VIP. Claimant was on vacation out of the country on that date and did not return to work until Monday, January 31, 2005.

Jeff Hoftender, co-owner of Miracle, closed on the business sale from VIP mid-afternoon on Monday, January 31, 2005. After the closing on January 31, claimant, while still on VIP's payroll, helped Hoftender change the locks on the vacuums and self-serve washes and turned over the new keys to Hoftender. Claimant acknowledged during his testimony that during the afternoon of January 31, 2005, Hoftender reiterated Miracle's offer to retain claimant in employment under the same terms as he had worked for VIP. Claimant replied that he was going to stay in employment with Brad Ingrahm, owner of VIP, and work at Ingrahm's other car washes and build cabins. Claimant did not give Hoftender his cell phone number for future contact purposes because Hoftender wanted him to stay and continue working that day and beyond. Claimant filed his claim for unemployment insurance benefits that same afternoon.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of work.

Iowa Code Section 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.

Ron Pothoff's hearsay statement was not dispositive of the issue of credibility of the parties. Ultimately, it was claimant's admission under oath that on the afternoon of Monday, January 31, 2005, during claimant's claim year effective January 30, 2005, Hoftender, on behalf of Miracle, made the offer of continued employment under the same terms to claimant. That no details of salary or hours was discusses is not fatal since no changes were proposed.

Even had claimant believed Hoftender did not need him immediately and would call him within two weeks, the offer had been made and claimant did not follow up after that period had elapsed and never specifically asked Hoftender about the employment when he visited the location as a social customer a month later. The offer was suitable as it included the identical terms of employment as claimant had with VIP and claimant did not provide a good-cause reason for the refusal. Benefits are denied.

DECISION:

The October 3, 2005, reference 02, decision is affirmed. Claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

dml/s