

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID B ANDERSON**  
Claimant

**APPEAL NO. 12A-UI-02341-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC  
SEDONA STAFFING**  
Employer

**OC: 01/01/12**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(3)a – Work Refusal

**STATEMENT OF THE CASE:**

The employer filed an appeal from the March 5, 2012 (reference 01) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on March 26, 2012. Claimant participated. Employer participated through work comp administrator Chad Baker and branch manager Trisha Atkinson.

**ISSUE:**

Did the claimant refuse a suitable offer of work and if so, whether the refusal was for a good cause reason?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant via phone by Atkinson on January 27, 2012. That offer included the following terms: full-time binder on second shift. The wage offered for the job is \$8.00, which is comparable to the prevailing rate of pay for similar work in the Maquoketa area. Claimant's average weekly wage is \$314.60. The offer was made in the fourth week of unemployment. He did not like it when he worked there before in July in the same job because of verbal abuse of a supervisor who was tossing, rather than stacking bundles.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of work but had a good cause reason for doing so.

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.

871 IAC 24.24(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code § 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

The offer was suitable as it offered a rate of pay that met or exceeded the claimant's average weekly wage but claimant did have a good cause reason for the refusal since the supervisor on that job in July was verbally abusive. Benefits are allowed.

**DECISION:**

The March 5, 2012 (reference 01) decision is affirmed. Claimant did refuse a suitable offer of work but had a good cause reason for doing so. Benefits are allowed, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs