

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GREG R ANDERSON**  
Claimant

**APPEAL NO. 10A-UI-02708-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMPS NOW HEARTLAND LLC**  
Employer

**OC: 01/10/10**  
**Claimant: Respondent (2)**

Section 96.5-3-a - Failure to Accept Suitable Work

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated February 11, 2010, reference 03, that concluded the claimant was not disqualified for refusing offered work. A telephone hearing was held on March 25, 2010. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Cary Miller participated in the hearing on behalf of the employer with a witness, Shea Munson.

**ISSUE:**

Did the claimant fail to accept an offer of suitable work without good cause?

**FINDINGS OF FACT:**

The claimant filed a new claim for benefits effective January 10, 2010. His average weekly wage based on his high quarter earnings was \$298.65.

On January 12, 2010, the employer offered the claimant a full-time job in Davenport, Iowa, as a general laborer for a construction company. The job paid \$10.00 per hour for 40 hours of work per week, which is above the going rate of pay for similar work in the Davenport area. The claimant refused the job because he was out-of-town at the time.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

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....

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.

The claimant refused an offer of suitable work. The job was full time and paid well over the claimant's average weekly wages and the going rate for similar work. Since the claimant did not participate in the hearing, there is no evidence that he had good cause to decline the job. The fact that he was out-of-town would not automatically mean that there was no way for him to accept the job.

**DECISION:**

The unemployment insurance decision dated February 11, 2010, reference 03, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css