

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MICHAEL J WEILAND**  
Claimant

**LA LEASING INC**  
**SEDONA GROUP**  
Employer

**APPEAL 16R-UI-05693-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/21/16**  
**Claimant: Respondent (2-R)**

Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The employer filed an appeal from the March 22, 2016, (reference 04) unemployment insurance decision that allowed benefits based upon refusing an offer of work. After due notice was issued, a telephone conference hearing was held on June 8, 2016. Claimant participated. Employer participated through unemployment benefits administrator, Colleen McGuinty, and branch manager, Joe Vermeulen. The administrative law judge took official notice of the administrative record, including fact-finding documents.

**ISSUES:**

Was a suitable offer of work made to the claimant?

If so, did the claimant fail to accept and was the failure to do so for a good-cause reason?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Vermeulen spoke to claimant by telephone on March 4, 2016, to offer an open position of work at Premier Tooling in Peosta, Iowa, working full-time, first shift as an entry-level machine operator to begin on March 7 pending a preemployment drug screen. The wage offered for the job was \$10.00, which is comparable to the prevailing rate of pay for similar work in the Dubuque area. Claimant's average weekly wage is \$324.86. The offer was made in the second week of unemployment. He told Vermeulen he had been working part-time with another temporary employment firm since March 3 and had another interview on Sunday with Hy-Vee so did not want any other employment because he was seeking full-time permanent work. He started working with Walmart full-time on March 24, 2016. He had previously worked at Nordstrom through Sedona for \$9.00 per hour.

Claimant claimed and was paid unemployment insurance benefits in the gross amount of \$339.00 for the three weeks from March 6 through March 26, 2016.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept a suitable offer of work.

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.

Iowa Admin. Code r. 871-24.23(20) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

Claimant argues Vermeulen did not actually make an offer of work to him. This is not credible as there was no reason for Vermeulen to call claimant if he did not have an open position to fill. The offer was suitable as it met the wage requirements given his average weekly wage. While claimant may have been working for another temporary employment firm part-time, this offer was full-time, which would be consistent with the requirement to earnestly and actively search for full-time work. Claimant would not be considered available for work if he were limiting his options to the Hy-Vee interview or other permanent employment. Although claimant said he wanted only permanent full-time employment, it is interesting to note that he did manage to find that while working part-time for another temporary employment agency. Thus, his restrictions on the job with Sedona was not valid and claimant did not have a good-cause reason for the failure to accept it.

**DECISION:**

The March 22, 2016, (reference 04) unemployment insurance decision is reversed. Claimant failed to accept a suitable offer of work. Benefits are withheld effective March 6, 2016, 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.

**REMAND:**

The overpayment issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs