

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY R HEIN
Claimant

APPEAL NO. 07A-UI-05681-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VOLT MANAGEMENT CORPORATION
Employer

OC: 04/08/07 R: 04
Claimant: Respondent (1)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated May 31, 2007, reference 01, which allowed benefits finding that on May 17, 2007 the claimant did not accept an offer to work as the job was not suitable. After due notice was issued, a telephone conference hearing was scheduled for and held on June 25, 2007. Although duly notified, the claimant did not participate. The employer participated by Ms. Blair Long, Senior Recruiter.

ISSUE:

At issue in this matter is whether Mr. Hein refused an offer of work that was suitable based upon his background, prior education and training.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds that: Mr. Hein refused an offer of work made by the captioned temporary employment service on May 17, 2007. The claimant was offered a position with Electrocoating of Iowa as a plater helper at the rate of \$9.00 per hour. After considering the matter, Mr. Hein refused the offer as it appears he was attempting to secure direct employment with Rockwell-Collins Company where he had been previously assigned by Volt Management Corporation. The claimant had been paid \$12.00 per hour at his work at Rockwell-Collins through Volt Management until that assignment ended on April 9, 2007. Mr. Hein contacted the temporary employment service immediately for reassignment after his most recent assignment ended.

The locale and the type of work appear to have been agreeable to Mr. Hein, however, the claimant was unwilling to accept a reduction in hourly pay from \$12.00 per hour to \$9.00 per hour at the time the offer of temporary work was made on or about May 17, 2007. At the time of hearing it appears that Mr. Hein had secured direct employment with Rockwell-Collins, presumably at \$12.00 or more per hour.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant did not refuse an offer of suitable work on or about May 17, 2007. The evidence in the record establishes that Mr. Hein had most recently been employed for a substantial period of time through Volt Management Corporation working at Rockwell-Collins Company at the rate of \$12.00 per hour. At the time the offer of work to Volt Management Corporation for assignment at Electrocoating of Iowa was made at the rate of \$9.00 per hour, the claimant was in his approximate fifth week of unemployment and did not accept because of the lower pay.

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.

For the reasons stated herein, the administrative law judge finds that the amount per hour offered for the new assignment did not equal or exceed the required percentage of the claimant's average weekly wage for insured work during the quarter of the claimant's base period in which Mr. Hein's wages were highest. It was, therefore, not a refusal of suitable work for the purposes of the matter under appeal.

Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated May 31, 2007, reference 01, is hereby affirmed. The claimant did not refuse an offer of suitable work. Benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css