

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SAM W LACK**  
Claimant

**APPEAL NO. 10A-UI-13754-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SAPORE PIZZA TOAST AND ...**  
Employer

**OC: 08/15/10**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(3)a – Work Refusal

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the September 27, 2010 (reference 03) decision that allowed benefits based upon an August 7, 2010 offer of work. After due notice was issued, a telephone conference hearing was held on November 18, 2010. Claimant did not respond to the hearing notice instructions and did not participate. Employer participated through owner/manager, Steve Siegel. Department's Exhibit D-1 was admitted to the record.

**ISSUE:**

The issue is whether an offer of work was made, if claimant failed to apply for or refused an offer of suitable work, and if so, whether the refusal was 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: Employer made an offer of work to claimant on August 7, 2010. Claimant did not have a valid claim for unemployment insurance benefits at the time.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant did not refuse 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.

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The administrative law judge does not have jurisdiction to evaluate the offer or refusal of work since the offer of employment took place outside of the benefit year. Benefits are allowed.

**DECISION:**

The September 27, 2010 (reference 03) decision is affirmed. Claimant refused an offer of work made outside of his benefit year; thus, the administrative law judge has no jurisdiction to determine suitability of the offer. Benefits are allowed, provided claimant is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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