

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK W GEORGE

Claimant

APPEAL NO. 07A-UI-00156-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMBINED CANDY & SNACKS LLC

SHAKESPEARES

Employer

**OC: 10/15/06 R: 04
Claimant: Respondent (1-R)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Shakespeare's, filed an appeal from a decision dated December 29, 2006, reference 02. The decision allowed benefits to the claimant, Mark George. After due notice was issued a hearing was held by telephone conference call on January 29, 2007. The claimant participated on his own behalf. The employer participated by Administrative Assistant Mary Bisinger and President Alisa Shakespeare.

ISSUE:

The issue is whether the claimant refused a suitable offer of work.

FINDINGS OF FACT:

Mark George was employed with Shakespeare's beginning May 2, 2006. He was on a leave of absence beginning October 12, 2006, with no specific return to work date. There was no offer of work made to him after that date. There has been a separation effective December 31, 2006.

REASONING AND CONCLUSIONS OF LAW:

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.

There was no offer of work made to the claimant at any time subsequent to the beginning of his leave of absence. Disqualification may not be imposed.

The issue of whether the claimant's separation from employment would disqualify him from receiving unemployment benefits should be remanded for determination.

DECISION:

The representative's decision of December 29, 2006, reference 02, is affirmed. Mark George is qualified for benefits, provided he is otherwise eligible as there was no offer of work made to him on or about December 4, 2006.

The issue of whether his separation from employment would disqualify him from receiving benefits is remanded to the Claims Section for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs