

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL POSSEHL

Claimant

APPEAL NO. 10A-UI-11434-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLINTON STAFFING COMPANY

Employer

OC: 02/15/09

Claimant: Appellant (5-R)

Iowa Code Section 96.5(3) – Work Refusal

STATEMENT OF THE CASE:

Paul Possehl filed a timely appeal from the August 11, 2010, reference 04, decision that denied benefits based on an agency conclusion that he had refused suitable work on February 22 2009. After due notice was issued, a hearing was held on October 8, 2010. Claimant participated and presented additional testimony through his mother, Emma Possehl. Jane Brown represented the employer. The administrative law judge took official notice of the Agency's administrative record of benefits paid to the claimant and wages reported by the claimant. The hearing in this matter was consolidated with the hearing an appeal number 10A-UI-11434-JTT in which the issues and facts were identical.

ISSUE:

Whether the claimant refused to accept suitable work without justification.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. The claimant started getting temporary work assignments through the employer in September 2008. The claimant completed an assignment on February 16, 2009. The claimant then accepted an assignment at Clausen warehouse in Clinton and completed the assignment on February 22, 2009.

On February 26, 2009, the employer left a message offering the claimant a one-day assignment at the Wild Rose Casino. The assignment was to start at 3:30 p.m. on March 4, 2009 and end at midnight that same day. The assignment would pay \$8.50 per hour, which was less than the \$9.00 per hour that the claimant received from the assignment at Clausen. The claimant refused the offered assignment because he had an 8:00 a.m. class the day after the proposed assignment and deemed a midnight end time too late. Claimant also refused the assignment because it paid less than the assignment at Clausen.

On March 5, 2009, the employer contacted the claimant and offered a new assignment at Clausen warehouse. The assignment was to start on March 7, 2009. Work hours were to be 7:00 a.m. to 3:30 p.m. and the wage was to be the \$9.00 per hour the claimant had previously

received in an assignment at Clausen warehouse. The claimant refused the assignment because he had agreed to help a friend with a remodeling project. The friend had agreed to pay the claimant for his assistance on the project.

On March 9, the employer offered the claimant yet another assignment at Clausen warehouse. The assignment was to start on March 14, 2009. The hours and the wage would be the same as previously offered. The claimant accepted the assignment. However, on March 14, the claimant notified the employer he had injured his feet while playing basketball and was unable to work. The claimant told the employer he had a doctor excuse. The claimant had done something to cause blisters on his feet and was not able to perform work on the weekend of March 14 and 15, 2009. The claimant neither provided a doctor's note nor made further contact with the employer.

The claimant had established a claim for unemployment insurance benefits that was effective February 15, 2009. The claimant received benefits for the period of February 15, 2009 through May 15, 2010. During that time, the claimant reported wages only for the weeks ending February 21 and 28, 2009.

REASONING AND CONCLUSIONS OF LAW:

A claimant who fails to accept an offer of suitable employment without good cause is disqualified for benefits until the claimant earns 10 times his weekly benefit amount from insured work. See Iowa Code section 96.5(3)(a).

Iowa Administrative Code rule 871 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work ... it must first be established that a bona fide offer of work was made to the individual by personal contact ... and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

The weight of the evidence in the record establishes that the claimant had good cause to refuse the one-day assignment on March 4, 2009 at the Wild Rose Casino. The hours offered by the employer were significantly later in the day than the hours claimant had previously worked for the employer and the wage was significantly less than the wage the employer had previously offered the claimant. Thus, the claimant's refusal of the March 4 work assignment would not disqualify him for unemployment insurance benefits.

The claimant's refusal of the March 7 assignment at Clausen warehouse presents a different story. The weight of the evidence indicates that the conditions of the employment, including the wages and hours, were the same as had previously been accepted by the claimant in an earlier assignment at the same client business. The claimant's decision to help a friend with a small construction project would not provide good cause for rejecting the offer of employment. The administrative law judge concludes that on March 5, 2009, the claimant rejected a suitable offer of employment without good cause. Effective March 5, 2009, the claimant was disqualified for benefits until he earned 10 times his weekly benefit amount. Based on the conclusion that the claimant rejected a suitable offer of employment on March 5, 2009, at a time when he had an active claim for benefits, the administrative law judge need not consider what happened in connection with the subsequent assignment at Clausen that was supposed to start on March 14, 2009.

This matter will be remanded to the Claims Division for entry of an overpayment decision in light of the present decision, unless such an overpayment decision has already been entered.

DECISION:

The Agency representative's August 11, 2010, reference 04, is modified as follows. The claimant had good cause for rejecting an offer of employment on February 26, 2009. However, on March 5, 2009, the claimant rejected a suitable offer of employment without good cause. Effective the benefit week that ended March 7, 2009, the claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount, provided he is otherwise eligible.

This matter is remanded to the Claims Division for entry of an overpayment decision in light of the present decision, unless such an overpayment decision has already been entered.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs