

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

BRIAN K RUNNEBERG
325 S 2ND ST
LAURENS IA 50554

POCAHONTAS COUNTY
ATTN COUNTRY AUDITOR
POCAHONTAS IA 50574

Appeal Number: 04A-UI-02105-HT
OC: 01/11/04 R: 01
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-3-a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Pocahontas County (Pocahontas), filed an appeal from a decision dated February 17, 2004, reference 01. The decision allowed benefits to the claimant, Brian Runneberg. After due notice was issued a hearing was held by telephone conference call on March 15, 2004. The claimant provided a telephone number of (712)841-6707. That number was dialed at 10:01 a.m. and the only response was a voice mail. A message was left indicating the hearing would proceed without the claimant's participation unless he called the toll-free number prior to the close of the record. By the time the record was closed at 10:15 a.m. the claimant had not contacted the Appeals Bureau and did not participate. The employer participated by County Auditor Margene Bunda.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Brian Runneberg began employment with Pocahontas on January 1, 2002. He was a full-time deputy sheriff. He was activated to military duty on August 24, 2002 and returned to work as a deputy sheriff on August 16, 2003. He was laid off for lack of work effective December 31, 2003, due to budget cuts.

Mr. Runneberg filed a grievance with the military and retained a private attorney. A series of negotiations commenced between County Sheriff Robert Lampe, the claimant, the military and the private attorney. On January 22, 2004, Sheriff Lampe offered the claimant a return to his job as a full-time deputy at the same hours and wages as he had held prior to December 31, 2003. The offer was refused.

Brian Runneberg filed a claim for unemployment benefits with an effective date of January 11, 2004. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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.

The claimant was offered the same job at the same hours and wages as he had held prior to being laid off on December 31, 2003. Mr. Runneberg has failed to establish why he refused the job offer when he had filed a grievance for the very purpose of having this position returned to him. Under the provisions of the above Code section, he is disqualified.

DECISION:

The representative's decision of February 17, 2004, reference 01, is reversed. Brian Runneberg is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/s