

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD R OCONNOR
Claimant

APPEAL NO: 12A-UI-14739-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MONSON & SONS INC
Employer

OC: 11/11/12
Claimant: Respondent (1)

Iowa Code § 96.3(5)a – Refusal of Suitable Work
871 IAC 24.24(8) – Refusal Disqualification Jurisdiction

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 12, 2012 determination (reference 02) that held the claimant qualified to receive benefits even though he declined the employer's November 6, 2012 offer of work. The claimant participated in the hearing. Stacy Fox appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant remains qualified to receive benefits as of November 11, 2012.

ISSUE:

Did the claimant decline the employer's November 6, 2012 offer of work when he had a valid unemployment insurance claim?

FINDINGS OF FACT:

The claimant started working for the employer as a truck driver on October 1, 2012. He drove the employer's truck locally.

On November 6, 2012, the claimant's dispatcher asked if he would be interested in driving a tanker for the employer during the winter season so he would not be laid off from work. The claimant would be driving from Clear Lake to Davenport if he accepted this job. The claimant declined the offer because he thought he had another job lined up after the employer laid him off work. The other employer offered to pay him \$5 an hour more than the employer paid him.

Fox understood the dispatcher asked the claimant about driving a tanker on November 12 when he brought back the employer's truck. After November 12, the employer did not have any more work that the claimant had been hired to do.

The claimant established a claim for benefits during the week of November 11, 2012. The job the claimant thought he had fell through after the driver he would be working for had his truck repossessed.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if declines an offer of work for reasons that do not disqualify him to receive benefits. Iowa Code § 96.5(3)a. Before a claimant can be disqualified under Iowa Code § 96.3(5)a, the offer of work and the claimant's refusal must occur within the claimant's benefit year. 871 IAC 24.24(8).

The claimant testified the dispatcher offered him a job to drive a tanker on November 6. Fox asserted the employer did not offer the claimant the tank job until November 12 when the claimant turned in the truck he had been driving. Since Fox did not offer the claimant a job, the claimant's testimony must be considered more credible than Fox's reliance on information from the dispatcher, who offered the claimant the job and did not participate in the hearing.

The claimant did not establish a claim for benefits until the week of November 11, 2012. This means, the claimant is not disqualified from receiving benefits for declining the employer's November 6, 2012 offer of work to drive a tanker. The claimant remains qualified to receive benefits as of November 11, 2012.

The employer is not one of the claimant's base period employers. The employer's account is not subject to charge during this benefit year.

DECISION:

The representative's December 12, 2012 determination (reference 02) is affirmed. The employer's offer of work occurred before the claimant established an unemployment insurance claim year. Therefore, the claimant is qualified to receive benefits as of November 11, 2012. The employer is not one of the claimant's base period employers. The employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs