

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BILLY M MCCLISH**  
Claimant

**SHORT STAFFED INC**  
Employer

**APPEAL 18A-UI-04675-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/16/17  
Claimant: Respondent (1)**

Iowa Code §96.5(3)a – Work Refusal  
Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The employer filed an appeal from the April 11, 2018, (reference 08) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 9, 2018. Claimant participated. Employer participated through Ashley Ahrendsen, Payroll Manager.

**ISSUE:**

Is the claimant able to and available for work, and did he refuse a suitable job offer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was offered a job on March 20, 2018 by the employer. The position was located in Sioux City, Iowa which is an hour's drive one-way for the claimant. The position paid \$10.00 per hour. Claimant refused the position because it was too far to drive each day. At that time he told the employer that he really wanted a position at Noriam in La Mars, Iowa.

On March 23, 2018 the employer offered claimant a job at Noriam in La Mars, Iowa. He could pick either first or second shift and the job paid \$12.00 per hour. The job was approximately 30 minutes' drive one way. The claimant refused the job because he was starting another job on Monday March 26. His new job lasted only five days. Claimant has not returned to the employer to ask for any additional work.

The claimant currently has not restrictions on his employability that prevent him for working.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Claimant has no medical restriction or other limitation on his employability. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Both offers were unsuitable, as the first one was too far for the claimant to drive and for the second one the claimant had already accepted another full time job that paid a higher wage. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The April 11, 2018, (reference 08), decision is affirmed. The claimant is able to and available for work. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/rvs