

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDSON S COLLINS

Claimant

APPEAL NO. 09A-UI-18303-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

OC: 10/04/09

Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able and Available

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 2, 2009 (reference 06) decision that denied benefits based upon an October 16, 2009 work refusal. After due notice was issued, a telephone conference hearing was held on January 20, 2010. Claimant participated. Employer participated through Rob Sawyer and Kimberly Thompson.

ISSUE:

The issue is whether claimant refused a suitable offer of work and if so, whether the refusal was for a good cause reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: After he had completed a two-day assignment at Family Christian Store on October 15, employer made an offer of work to claimant on October 16, 2009. That offer included the following terms: Timberroof/ProBuild in New Hampton, Iowa to begin October 19, 2009 as a full-time first shift truss builder at \$8.49 per hour (\$339.60 for a 40 hour week), with possible overtime and with a transportation allowance of \$7.00 per day if he drove to the work site about 40 miles from Waterloo. He also would have been able to ride with someone else. Claimant's average weekly wage is \$571.13. The offer was made in the second week of unemployment. The wage offered for the job is comparable to the prevailing rate of pay for similar work in the Waterloo area. He told employer on Friday, October 16 he would accept the job and when he reported for work at 11:00 a.m. on Monday, October 19 the employer told him the job was filled because the first shift had already started. He was not available to take a job offered at Hawkeye Community College on December 2, 2009 because he was caring for his children who were ill.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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 offer was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Benefits are allowed.

DECISION:

The December 2, 2009 (reference 06) decision is reversed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible. The benefits withheld effective the week ending December 6, 2009 shall be paid to claimant forthwith.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css