

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON NEW
Claimant

APPEAL NO: 16A-UI-08595-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ATLANTIC BOTTLING CO
Employer

OC: 04/17/16
Claimant: Appellant (2)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 1, 2016, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 25, 2016. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant refused a suitable offer of work.

FINDINGS OF FACT:

The employer made an offer of work to the claimant on June 17, 2016. That offer included the following terms: A full-time position as safety manager earning \$90,000.00 per year. The claimant's average weekly wage is \$1,923.00 derived from a salary of \$100,000.00 per year during the highest quarter of his base period. The offer was made in the eighth week of unemployment and consequently the salary had to be at least 75 percent of the claimant's average weekly wage or \$1,442.00. The salary offered by Atlantic Bottling met would have paid the claimant \$1,730.00 per week. The job would have started July 11, 2016.

The claimant notified Atlantic Bottling he had another interview scheduled June 22, 2016, with BASF of Ames. That position paid approximately \$10,000.00 more per year than Atlantic Bottling was offering and more closely matched the claimant's experience. He was subsequently offered that job and accepted it June 27, 2016. He informed Atlantic Bottling of his decision. The position at BASF started July 20, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the 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. (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.

Iowa Admin. Code r. 871-24.24(7) provides:

(7) Gainfully employed outside of area where job is offered. Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

The claimant turned down the position at Atlantic Bottling because during the time he was interviewing for that job he also interviewed for employment at BASF. The offer was suitable as it met all of the requirements for a suitable job offer but the claimant did have a good-cause

reason for refusing it. Because the claimant was offered and accepted employment at BASF, his refusal of the Atlantic Bottling offer was not a disqualifying event. Consequently, the administrative law judge concludes the claimant had a good cause reason for refusing the job at Atlantic Bottling. Therefore, benefits are allowed.

DECISION:

The August 1, 2016, reference 03, decision is reversed. The claimant did refuse a suitable offer of work but had a good cause reason for doing so. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs