

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTOPHER R MILLER**  
Claimant

**APPEAL NO. 08A-UI-02506-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SUPREME STAFFING INC**  
Employer

**OC: 01-20-08 R: 03**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(3)a – Work Refusal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 11, 2008, reference 07, decision that denied benefits. After due notice was issued, a hearing was held on March 31, 2008. The claimant did participate. The employer did participate through Mike Riehl, Office Manager.

**ISSUE:**

Did the claimant refuse a suitable offer of work?

**FINDINGS OF FACT:**

The claimant had been assigned to work at Iowa Aluminum until he was laid off on December 12, 2007. The employer, Supreme Staffing contacted the claimant on February 7, 2008 and made an offer of return to work at Iowa Aluminum. That offer included the following terms: Return to the same shift at the same rate of pay (\$8.00 per hour) beginning on the next day, February 8, 2008. The claimant told Mr. Riehl he could not start until the following Monday, February 11, 2008. Mr. Riehl said he would check with Iowa Aluminum to make sure that was okay, and that the claimant was to call him back one-half hour later at 11:30 a.m. The claimant did not call Mr. Riehl back, nor did he report for return to work on Friday, February 8 or Monday, February 11, 2008. Claimant's average weekly wage is \$302.58. The offer was made in the third week of unemployment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant did 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 suitable as it did meet the minimum wage requirements and claimant did not have a good-cause reason for the refusal. The job was the same one the claimant had previously performed at the same rate of pay and for the same work shift. The claimant had no good cause for not calling Mr. Riehl back and for failing to start the job. Benefits are denied.

**DECISION:**

The March 11, 2008, reference 07, decision is affirmed. Claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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