

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREW BEYER
Claimant

APPEAL NO: 12A-UI-04690-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA MOLD TOOLING CO INC
Employer

OC: 05-15-11
Claimant: Respondent (1)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 19, 2012, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 16, 2012. The claimant participated in the hearing. Melinda Hood, director of human resources, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The claimant was employed as a full-time welder for Iowa Mold Tooling Company until March 9, 2012, at which time the employer closed the McIntire facility where the claimant worked. The claimant was scheduled 6:00 a.m. to 4:30 p.m., Monday through Thursday, and 6:00 a.m. to 11:30 a.m., Fridays, and was paid \$15.97 per hour. The employer made an offer of work to the claimant on March 8 and April 11, 2012. The first offer was made in person and included the following terms: A position as a full-time welder earning \$15.97 working at its Riceville location, approximately 20 miles away, from 5:00 p.m. to 3:30 a.m.' or the Garner location, approximately 50 miles away, from 6:30 a.m. to 5:00 p.m. The April 11, 2012, offer was made by mail and included the following terms: A position as a full-time welder earning \$15.97 in Riceville on the day or night shift, with the day shift ending at 5:00 p.m. The claimant declined all offers because he is a single parent with full custody of his child and his daycare provider does not work after 5:00 p.m. The claimant could not accept either offer, because he would not be in Osage in time to retrieve his child from his daycare provider. Additionally, the position in Garner involved drive time exceeding one hour and the Riceville position was approximately 20 miles away. The claimant reopened his claim March 11, 2012, and his average weekly wage is \$778.09. The offers were made in the first and fifth weeks of unemployment.

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 section 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 is considered unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Additionally, because the claimant's hours would have been significantly different than during his previous employment with the company, which would have interfered with his childcare arrangements, the offer is unsuitable. Therefore, benefits must be allowed.

DECISION:

The April 19, 2012, reference 01, decision is affirmed. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw