

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JOHNNY W TOLLE**  
Claimant

**HEARTLAND STAFFING AGENCY LLC**  
Employer

**APPEAL 15A-UI-00859-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/30/15  
Claimant: Respondent (2)**

Iowa Code §96.5(3)a – Work Refusal  
Iowa Code § 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 13, 2015 (reference 04) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 4, 2015. Claimant did not participate. Employer participated through Laurie Thompson, Manager.

**ISSUES:**

Did the claimant refuse a suitable offer of work?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On December 4, 2014 Ashley Thompson offered the claimant a full-time position for \$12 per hour as an assembler/laborer on the first shift at PDM in Boone, Iowa; approximately 8 to 10 miles from Ames. The claimant refused the job because he did not have work boots. The claimant had previously performed construction work which makes clear he should have had some type of footwear that he could wear in a plant. There was no special requirement that the foot wear be steel toes shoes or some special brand. The claimant did not have a good cause reason to refuse the job. On December 9, 2014 Ms. Thompson again offered the claimant the same work at PDM and made clear to him that he need only have closed toe shoes, like tennis shoes in order to perform the work. The other terms of the offer were the same. At the time the claimant refused the job because his fiancé was not home and he could not come to the office to sign the job acceptance sheet. The claimant did not have a good cause reason to reject the offer. The claimant admitted at the fact-finding interview to the fact finder that he had not been making his job contacts.

## **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.

Both of the offers were suitable as they did meet the minimum requirements and claimant did not have a good cause reason for the refusal. Work boots were not required. The claimant simply did not want to accept the job. It was similar to work he had done previously and met the minimum wage requirements. Benefits are denied.

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

Iowa Code § 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$4654 pursuant to Iowa Code § 96.3(7), as the ineligibility decision that created the overpayment decision has now been reversed.

**DECISION:**

The January 13, 2015 (reference 04) decision is reversed. The claimant refused two suitable offers 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. The claimant has been overpaid unemployment insurance benefits in the amount of \$4654.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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