

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT M PIEART
Claimant

APPEAL NO: 18A-UI-06853-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STAFFING INC
Employer

OC: 03/18/18
Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Failure to Accept Work/ Work Refusal

STATEMENT OF THE CASE:

The employer, Iowa Staffing Inc., filed an appeal from the June 21, 2018, (reference 05) unemployment insurance decision that allowed benefits. After due notice, a telephone hearing was held on July 2, 2018. The claimant participated personally. The employer participated through Alejandra Rocha, office manager. At the parties' request, the hearing was held jointly with Appeals 18A-UI-06854-JC-T and 18A-UI-06580-JC-T.

The administrative law judge took official notice of the administrative records including benefits paid to the claimant. The fact-finding documents were unavailable at the time of hearing. Employer Exhibit 1 was admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was a suitable offer of work made to the claimant?

If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Employer made an offer of work to claimant on May 18, 2018. The offer was extended by telephone by Megan Bolar. That offer included the following terms: full-time employment at Rockford Rigging as a machine operator, earning \$13.00 per hour. Claimant's average weekly wage is \$895.93. 40 hours of work at the offered wages would result in the claimant earning \$520.00 per week. The offer was made in the first week of unemployment. Claimant did have a valid claim for unemployment insurance benefits at the time. The claimant declined the offer. The claimant has since returned to full-time employment at Economy Forums, as a machinist, in June 2018. He has not made weekly continued claims since June 2, 2018.

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 section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The offer was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Average weekly wage is computed not based on the claimant's last employment but rather claimant's average earnings during the base period of their claim. The maximum weekly wages the claimant could earn under the offer extended by this employer on May 18, 2018 was \$520.00 per week, which is not 100% of the claimant's average weekly wages of \$895.93. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The June 21, 2018, (reference 05) decision is affirmed. Claimant did not refuse a suitable offer of work. Benefits are allowed, provided claimant is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn