

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYLER W OLSON
Claimant

APPEAL NO. 06A-UI-10359-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WILD ROSE CASINO RESORT
Employer

OC: 09/17/06 R: 01
Claimant: Respondent (1)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Wild Rose Casino, filed an appeal from a decision dated October 20, 2006, reference 03. The decision allowed benefits to the claimant, Tyler Olson. After due notice was issued a hearing was held by telephone conference call on November 7, 2006. The claimant participated on his own behalf. The employer participated by Human Resources Manager Dawn Stombaugh.

ISSUE:

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

FINDINGS OF FACT:

Tyler Olson filed a claim for unemployment benefits with an effective date of September 17, 2006. On October 4, 2006, Recruiter Stacy Ringlaben of Wild Rose Casino, interviewed the claimant for a job as a bartender. Before any job offer could be made, he had to pass a drug screen and a background check. He was referred to the local hospital to supply a urine sample for testing at 2:20 p.m. on October 4, 2006. On the way to the hospital the claimant was contacted about a position as a law enforcement officer which he elected to pursue as he has an educational background in criminal justice.

REASONING AND CONCLUSIONS OF LAW:

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 claimant did not refuse an offer of work because no actual offer had yet been made. He would be offered a job by Wild Rose Casino only if he passed the drug screen and background check. No offer of work was made and no disqualification may be imposed.

DECISION:

The representative's decision of October 20, 2006, reference 03, is affirmed. Tyler Olson is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeyer
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs

