

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANDREW T MUSTARD
Claimant

RANDALL A KAUNE JR
Employer

APPEAL 20A-UI-12880-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/19/20
Claimant: Respondent (1R)**

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.5(3) – A&A – Work Refusal

STATEMENT OF THE CASE:

Employer filed an appeal from the October 13, 2020 (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 14, 2020, at 3:00 p.m. Claimant did not participate. Employer participated. Employer's Exhibits 1 – 3 were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is able to and available for work.
Whether claimant refused to apply for or accept an offer of suitable work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a seasonal laborer from January 2020 until his employment with Randall A Kaune, Jr. ended on or about April 11, 2020.

Claimant last performed work for employer on February 12, 2020. On February 23, 2020, employer asked claimant to work; claimant did not reply. On February 28, 2020, employer asked claimant to work; claimant declined. (Exhibit 3) On March 8, 2020, employer asked claimant if he would work for employer during the spring of 2020; claimant did not respond. (Exhibit 2) On March 18, 2020, employer asked claimant to work; claimant declined. (Exhibit 2) On March 22, 2020, employer asked claimant to work; claimant declined. (Exhibit 2) On April 11, 2020, employer asked claimant to work; claimant did not respond. As of April 11, 2020, employer considered claimant to have quit based upon his lack of response and communication with employer. Employer made no further offers of employment to claimant.

Claimant filed an initial claim for unemployment benefits effective April 19, 2020. Accordingly, claimant's benefit year began April 19, 2020 and ends April 18, 2021. There has been no initial investigation or decision regarding the issue of separation from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 38, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.5(3) provides in pertinent part:

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.

Iowa Admin. Code r. 871-24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

In this case, employer's last offer of work to claimant was made on April 11, 2020. Claimant's benefit year did not begin until April 19, 2020. Accordingly, the administrative law judge does not have jurisdiction to evaluate the offer or refusal of work, because the offer of employment took place outside of the benefit year.

The issue of separation from employment should be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The October 13, 2020 (reference 03) unemployment insurance decision is affirmed. Claimant failed to accept an offer of work that was made outside of the benefit year. Therefore, the administrative law judge has no jurisdiction to determine suitability of the offer. Benefits are allowed provided claimant is otherwise eligible.

REMAND:

The issue of separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Adrienne C. Williamson
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December 23, 2020
Decision Dated and Mailed

acw/mh