

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN S LONG
Claimant

CORRIDOR NETWORK CONSTR INC
Employer

APPEAL 17A-UI-02684-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/10/16
Claimant: Respondent (1-R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The employer filed an appeal from the February 27, 2017 (reference 01) unemployment insurance decision that allowed benefits based upon a determination that claimant had good cause to refuse an offer of work. The parties were properly notified of the hearing. A telephone hearing was held on April 3, 2017. The claimant, John S. Long, participated. The employer, Corridor Network Construction, Inc., participated through Alan Meyer, Owner; and Leah Gaddis, Business Manager.

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:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a foreman, from approximately April 2015 until on or about December 20, 2016, when he was laid off due to a lack of work. In late January, Meyer contacted claimant and notified him that work would be available beginning February 7, 2017, in Atlanta. This would be a three-week work assignment, and claimant would not be able to fly back and forth between the Atlanta assignment and his Iowa home. Claimant declined this offer of work and quit his employment. He had three obligations scheduled during the time the employer wanted him to be in Atlanta. He had planned a vacation from February 11 through February 14. He also had a tax appointment on February 20, and his child was having surgery on February 28. While claimant admits that he had traveled for work in the past, he had never been gone longer than nine days and he had never gone as far from home as Atlanta. Claimant testified that most of his work assignments were in Illinois and Wisconsin and accommodated trips home on the weekend. Claimant believes that if he had been recalled to work at a closer-to-home assignment, he could have accepted the offer of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept a suitable offer of work but had good cause to refuse the offer.

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. (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.

Here, claimant admits that he refused to accept an offer of work from the employer. He credibly testified that he refused this offer because the offer was to work for three weeks multiple states away without any opportunity to return home and meet the obligations he arranged prior to the offer of work. Claimant also provided unrefuted testimony that had he been recalled to work closer to home, he would have accepted the offer. Benefits are allowed.

DECISION:

The February 27, 2017 (reference 01) unemployment insurance decision is affirmed. Claimant declined an offer of work but had good cause to do so. Benefits are allowed, provided he is otherwise eligible.

REMAND: At the same time that claimant refused the offer of work from the employer, he also quit his employment. The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed