

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LANCE SCHAEFER
Claimant

APPEAL NO: 13A-UI-04688-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 07/01/13
Claimant: Appellant (2)

Section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 11, 2013, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 9, 2013. The claimant participated in the hearing. Deb Miller, Human Resources Assistant, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The claimant was employed as a full-time maintenance worker assigned to Victor Manufacturing from June 20, 2011 to March 15, 2013. His scheduled shift was from 3:00 p.m. to 11:00 p.m. The assignment ended because the client downsized and lost some of its work to another plant. Approximately 20 employees assigned to the client, including the claimant, by the employer were deemed to have completed their assignments as of March 15, 2013.

The claimant contacted the employer within three business days of the completion of his assignment and maintained weekly contact after that date. The claimant had called the employer March 19, 2013, stating he was looking for first shift work and \$16.00 per hour and the employer notified him it did not have any work that met his criteria at that time. The claimant called the employer March 23, 2013, checking in for work and the employer made an offer of work to the claimant. That offer included the following terms: A full-time first shift employee, working 6:00 a.m. to 2:30 p.m., Monday through Saturday, at IAC Auto Body Shop in Iowa City earning \$13.00 per hour. The claimant's average weekly wage is \$593.76. The offer was made in the claimant's first week of unemployment. The claimant's assignment at Victor Manufacturing was six miles from his home. The job offered in Iowa City was 35 miles each way from his residence. The claimant declined the offer of work because of the pay and distance from his home.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did refuse a suitable offer of work.

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.

Because the claimant's average weekly wage at the time of the job offer by the employer was \$593.76, the offer was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Therefore, benefits are allowed.

DECISION:

The April 11, 2013, reference 04, decision is reversed. The claimant did not refuse a suitable offer of work because the wages did not meet the wages as set out in the code section stated above. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs