

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS L GOMEZ
Claimant

APPEAL NO. 10A-UI-07726-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAYTAG DAIRY FARMS INC
Employer

**Original Claim: 04/18/10
Claimant: Respondent (1)**

Section 96.5-3-a - Failure to Accept Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 20, 2010, reference 02, that concluded the claimant was not subject to disqualification for failing to accept work. A telephone hearing was held on July 8, 2010. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Myrna Ver Ploeg participated in the hearing on behalf of the employer with a witness, Mallory Wilson.

ISSUE:

Is the claimant subject to disqualification for failing to accept an offer of suitable work without good cause?

FINDINGS OF FACT:

The claimant worked about 32 hours per week as a laborer from November 2, 2009, to December 21, 2009. He was laid off due to lack of work on December 21 but was informed that the layoff was temporary and he would be recalled when orders picked up sufficiently.

On January 14, 2010, the human resources manager called the claimant and offered him his job back. The claimant told her that he was going to stick with his full-time job at Culvers and needed to take care of family matters.

The claimant filed a claim for unemployment insurance benefits with an effective date of April 18, 2010. He did not have a claim in effect when the offer of work was made.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

Iowa Code section 96.5-3 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 unemployment rules provide that a claimant cannot be disqualified for failing to accept an offer or work if the offer of work was made before the claimant filed for benefits. 871 IAC 24.24(8). In this case, the claimant cannot be disqualified, because the offer was made before he filed for unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated May 20, 2010, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw