

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY J HUBBARD
Claimant

APPEAL NO. 11A-EUCU-00800-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RM ENTERPRISES INC
Employer

**OC: 01/02/11
Claimant: Respondent (2)**

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 27, 2011 (reference 04) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on December 20, 2011. Claimant did not respond to the hearing notice instructions and did not participate. Employer participated through Company President Rhonda Coldburn.

ISSUE:

The issue is whether an offer of work was made, if claimant failed to apply for or refused an offer of suitable work, and if so, whether the refusal was for a good-cause reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Coldburn made an offer of work to claimant on Friday, October 7, 2011. That offer included the following terms: to begin October 10, a manufacturing job on first shift, 30 to 40 hours per week. He declined the offer because he said he had another job. He called back on Saturday, October 8, to see if the position was still available, but it had been filled. There is no evidence of other employment at the time. The wage offered for the job is \$8.25, which is comparable to the prevailing rate of pay for similar work in the Mason City area. Claimant's average weekly wage is \$260.84. The offer was made after the 18th week of unemployment. Claimant is eligible to reapply for work with the employer.

REASONING AND CONCLUSIONS OF LAW:

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

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. 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 offer was suitable and claimant has not established that he was working elsewhere at the time, so he did not have a good cause reason for the refusal. Benefits are denied.

DECISION:

The October 27, 2011 (reference 04) decision is reversed. Claimant did refuse a suitable offer of work. Benefits are withheld effective October 9, 2011 until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible. Inasmuch as no benefits were claimed or paid for the period in question, no overpayment applies.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw