

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES K HURLESS
Claimant

APPEAL NO. 12A-UI-12383-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

OC: 09/02/12
Claimant: Respondent (1)

Section 96.5-3-a - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 3, 2012, reference 02, that concluded the claimant was not subject to disqualification for failing to accept suitable work. A telephone hearing was held on November 9, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Shauna Schroeder participated in the hearing on behalf of the employer. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant's average weekly wage from his highest quarter of wages in his base period was \$369.93. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

Did the claimant fail to accept an offer of suitable work without good cause?

FINDINGS OF FACT:

The claimant worked full time for the employer as a security officer on an assignment at Archer Daniel Midland from October 2011 to September 5, 2012. He worked full time with some overtime at a rate of pay of \$8.00 per hour.

After the claimant's assignment with Archer Daniel Midland ended, the claimant filed a new claim for unemployment insurance benefits effective September 2, 2012. His weekly benefit amount was determined to be \$229.00. His average weekly wage from his highest quarter of wages in his base period was \$369.93.

The employer offered the claimant a temporary assignment working as a security guard on September 7 and 8. The job involved two 12-hour shifts and paid \$10.00 per hour. The claimant declined the job because he wanted a permanent position with set hours to accommodate his wife's doctor appointments.

On September 17, the employer offered the claimant an assignment working as a security guard at Eagle Iron Works. The job involved two 12-hour overnight shifts on Fridays and Saturdays,

and paid \$7.25 per hour (\$174.00 per week). The claimant declined the job because he wanted a full-time work.

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 § 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....

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.

The claimant is not disqualified from benefits because neither offer made by the employer paid the claimant 100 percent of his average weekly wage of \$369.93.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The claimant's insistence for permanent full-time employment does not raise an issue of availability for work.

The claimant remains disqualified from receiving unemployment benefits based on a decision issued on October 3, 2012, reference 04, that concluded he was discharged on September 5, 2012, for work-connected misconduct.

DECISION:

The unemployment insurance decision dated October 3, 2012, reference 02, is affirmed. The claimant is not disqualified for declining the offers of work made on September 6 and 17, 2012. He remains disqualified from receiving unemployment benefits based on a decision issued on October 3, 2012, reference 04, that concluded he was discharged on September 5, 2012, for work-connected misconduct.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

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