

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHARLIE GARY
Claimant

LA LEASING INC
Employer

APPEAL 17R-UI-04786-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/15/17
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

The employer filed an appeal from the March 3, 2017, (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 23, 2017. Claimant participated. Employer participated through unemployment benefits administrator Colleen McGuinty and industrial account manager Ali Mangelsdorf.

ISSUES:

Did the claimant refuse to apply for or accept an offer of suitable work?
Is the claimant able and available for work?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant via telephone on January 26, 2017. That offer included the following terms: a spot job as a general laborer at I-Wireless in Moline, Illinois on January 28, 2017, from 10 p.m. until the work is complete at approximately 6:00 a.m. The wage offered for the job is \$8.25, which is comparable to the prevailing rate of pay for similar work in the area. Claimant's average weekly wage is \$265.55. The offer was made during claimant's second week of unemployment.

Claimant declined the offer for work because he mistakenly believed that January 28 was a Sunday. Claimant was scheduled to work for another temporary staffing firm on Monday, January 30, 2017, at 6:00 a.m. and did not think it would be physically possible to work both shifts.

Claimant was available for work during the time period in question, and but for his mistake, he would have accepted the offer of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant declined to accept a suitable offer of work for a good cause reason.

Cases of “refusal of suitable work without good cause” are subject to a two-step analysis. A determination must be made regarding whether the work was suitable, and if it was, whether claimant has good cause for refusal. Iowa Admin. Code 871—24.24(3).

The employer has the burden of proving the offer was suitable. Iowa Code § 96.5(3)a(1) provides:

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.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

If the offer was suitable, the claimant has the burden to establish the offer was refused for “good cause.” “Good cause for refusing work must involve circumstances which are real, substantial, and reasonable, not arbitrary, immaterial, or capricious.” *Norland v. IDJS*, 412 N.W.2d 904, 914 (Iowa 1987).

The offer was suitable as it met the minimum wage requirements, it was within commuting distance, and did not jeopardize claimant's health, safety, or morals.

The remaining issue is whether claimant had a good cause reason for failing to accept the offer of work. Claimant credibly testified that he declined the offer of work because he mistakenly believed January 28 was a Sunday and he was scheduled to work for another temporary employment firm on Monday at 6:00 a.m. Claimant declined the offer of work because he did not believe it would be physically possible for him to work both shifts. In fact, employer offered claimant work on Saturday night. Despite claimant's mistake, he did establish he refused the offer of work in good faith for a good cause reason.

Although claimant was scheduled to work on Monday, January 30, 2017, the assignment was for another temporary staffing firm and was not permanent. The administrative record shows that claimant has not been working to such a degree that would remove him from the labor market to the point where he would be considered unavailable for work.

DECISION:

The March 3, 2017, (reference 03) decision is affirmed. The offer of work was suitable. However, claimant refused the offer for a good cause reason. Benefits are allowed, provided claimant is otherwise eligible.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/rvs