

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DALTON THOMPSON
Claimant

APPEAL 16A-UI-09462-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EMPLOYMENT CONNECTIONS INC
Employer

OC: 07/17/16
Claimant: Respondent (1)

Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The employer filed an appeal from the August 10, 2016, (reference 01) unemployment insurance decision that allowed benefits based upon a work refusal. The parties were properly notified about the hearing. A telephone hearing was held on August 30, 2016. Claimant participated. Employer participated through corporate accountant Tammy Christianson. The parties waived notice of the work refusal issue pursuant to Iowa Code section 96.5(3)a.

ISSUE:

Did claimant fail to accept a suitable offer of work and if so, was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On July 27, 2016, Jordan Hermiter offered a full-time maintenance job with Rosenboom in Spirit Lake with permanent employment possible after 90 days (525 hours) beginning at \$12.00 per hour (\$480 per week). The commuting distance was 20 miles one-way. Claimant's average weekly wage (AWW) was \$453.75. The offer was made in the second week of unemployment. Claimant declined because his vehicle was not road-worthy enough to handle 40 round-trip miles per day. He had not worked outside of Spencer for the employer in the past. He also has the option of taking a bus or taxi in Spencer, where he lives. Before he moved to Spencer to help his father during his final illness, he had lived in Algona and commuted 19 miles to work in Bancroft when his vehicle was running well.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the offer of work was not suitable.

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. (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.

The offer was unsuitable, as it was outside the usual commuting distance for claimant with this employer and during the base period. He is available to accept work in the Spencer area.

DECISION:

The August 10, 2016, (reference 01) unemployment insurance decision is affirmed. The offer of work was not suitable. Benefits are allowed, provided claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs