

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACOB E RUSSELL
Claimant

APPEAL NO. 09A-UI-10317-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RUNYAN, R SCOTT
WOODEN CONCEPTS
Employer

OC: 05/24/09
Claimant: Respondent (1)

Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

Wooden Concepts filed a timely appeal from a representative's decision dated July 13, 2009, reference 04, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for an held on August 6, 2009. The claimant participated personally. The employer participated by Ben Doran, Attorney at Law and Scott Runyan, Company Owner.

ISSUE:

At issue is whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and having considered the evidence in the record, finds: Jacob Russell was employed by Wooden Concepts as a part-time production worker from October 2008 until January 9, 2009 when he was temporarily laid off work due to business conditions. Mr. Russell was assigned to work 32 hours per week and was paid by the hour.

On the following day, January 10, 2009, the employer attempted to communicate an offer to return to work to Mr. Russell. The employer left a message for the claimant at the cellular telephone number that Mr. Russell had previously provided to the company. The employer attempted to communicate that a new order for work had come in and that Wooden Concepts desired Mr. Russell to return to work the following workday, Monday, January 12, 2009. Mr. Russell did not receive the cell phone message. The claimant initiated telephone calls to the employer on January 11, 12 and 13, 2009, but appears the offer of work was not communicated during those conversations.

Mr. Russell accepted other employment with Ace Hardware. The employer in the interim had hired another part-time worker who worked Mondays, Wednesdays and Fridays. In March 2009, the employer communicated to Mr. Russell that part-time employment on Tuesdays and Thursdays was available. Mr. Russell indicated that he would be interested in part-time employment but it was contingent upon his work schedule with Ace Hardware. The claimant did

not return at that time as his work schedule had increased with his current employer, Ace Hardware. Subsequently the claimant was separated from his employment with Ace Hardware.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant did not refuse a suitable offer of work.

18, 159, 157

In the case at hand the evidence establishes that Mr. Russell did not receive the offer of work that the employer attempted to communicate to him by leaving a message on the claimant's cell phone number on or about January 10, 2009. The administrative law judge finds the claimant's testimony to be credible regarding this matter as Mr. Russell had initiated three telephone calls to the employer in the following days, thus dispelling the perception that the claimant may have been attempting to avoid contact with the employer. Neither Mr. Russell nor Mr. Runyan recall if the subject of the work offer was brought up by either party during these telephone conversations subsequent to January 10, 2009. The administrative law judge thus concludes that a bone fide offer of work was not actually made to the claimant by personal contact. Subsequently the claimant did not accept an offer of reduced part-time employment with Wooden Concepts because he was gainfully employed elsewhere and his work schedule as new employment was not flexible enough to allow the claimant to work Tuesdays and Thursdays for Wooden Concepts.

For the reasons stated herein, the administrative law judge concludes that benefits are allowed.

DECISION:

The representative's decision dated July 13, 2009, reference 04, is affirmed. No offer of work with Wooden Concepts was made on or about January 12, 2009. Benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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