

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN T FORD
Claimant

APPEAL NO. 10A-UI-15073-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WORKSOURCE INC
Employer

OC: 01/31/10
Claimant: Respondent (1-R)

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

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 28, 2010, reference 01, that concluded the claimant was not subject to disqualification for refusing work. A telephone hearing was held on December 7, 2010. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Missy Flippen participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. He worked an assignment as a laborer at Gregory's Manufacturing Company in Ft. Madison, Iowa, from April 8, 2010, to June 7, 2010, when the employer ended the assignment. His rate of pay was \$8.00 per hour for full-time work.

After that assignment ended, the employer offered the claimant another assignment on June 15, 2010. The assignment was a full-time production worker job with Foam Fabricators in Ft. Madison. The rate of pay was \$7.75 to \$8.00 based on experience, which is comparable to the going rate of pay for similar work in the area. The job was for an indefinite period of time. The claimant had filed a claim for unemployment insurance benefits when the offer of work was made.

The claimant declined the job citing personal reasons. The claimant lived in Luray, Missouri, about 45 miles from Ft. Madison. He placed no geographic limits on job assignments he would accept when he applied for work with the employer and worked in Ft. Madison on his previous assignment.

The claimant filed a claim for unemployment insurance benefits with an effective date of January 31, 2010. His average weekly wage based on his high quarter of earnings in his base period is \$437.00.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

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 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....

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 subject to disqualification for declining the work offered on June 15, 2010, because the wage offered (within the claimant's first week of unemployment) did not meet the wage requirements of Iowa Code section 96.5-3-a.

The employer raised the issue of whether the claimant should be disqualified because he could be deemed to have voluntarily quit because he did not contact the employer within three days of his assignment of Gregory's Manufacturing Company. No decision is possible on this issue because it wasn't listed on the hearing notice. The issue of whether the claimant is subject to the voluntary quit disqualification based on his separation from work on June 7, 2010, under Iowa Code section 96.5-1-j is remanded to the Agency to investigate and determine.

The file discloses that the claimant continued to file claims for unemployment insurance benefits while he worked for the employer from April 8, 2010, to June 7, 2010 without reporting his wages. The issue of whether the claimant failed to report his work and earnings is also remanded to the Agency to investigate and determine.

DECISION:

The unemployment insurance decision dated October 28, 2010, reference 01, is affirmed. The claimant is not subject to disqualification for failing to accept work offered on June 15, 2010. The issue of whether the claimant is subject to the voluntary quit disqualification is remanded to the Agency to investigate and determine. The issue of whether the claimant failed to report his work and earnings is also remanded to the Agency to investigate and determine.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs