

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MUSTAFA NEBIC

Claimant

APPEAL NO. 09A-UI-04892-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP

Employer

OC: 02/08/09

Claimant: Respondent (1)

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

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 16, 2009, reference 01, that concluded the claimant was laid off. A telephone hearing was held on April 23, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Donna Mulder participated in the hearing on behalf of the employer with a witness, Cory Harstad.

ISSUE:

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

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked for the employer as a security officer in a floater position from May 21, 2008, through January 17, 2009. As of January 17, 2009, the claimant was laid off.

The claimant had been offered a short-term assignment on a movie shoot location on February 3. The job offered \$10.00 per hour for a couple of days of work at most. The claimant called February 3 and stated that he had to decline the job for unknown reasons.

The claimant was also scheduled to come in and view some training videos for six hours on March 25, 2009. He would have been paid \$7.25 per hour. He missed the training because his truck was broke down and he did not have a way to travel from his home in Granger to Des Moines for the training.

The claimant filed a new claim for unemployment insurance benefits with an effective date of February 8, 2009. His average weekly wage based on his high quarter wages is \$540.09.

The claimant has been available for work each week he filed and has been looking for jobs. He was without personal transportation from March 25 to April 6, 2009, but he was available to work in his locality.

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.

Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year before a refusal disqualification can be imposed. 871 IAC 24.24(8).

The offer of work made on February 3 is not disqualifying because it was made before the claimant filed for unemployment insurance benefits. Additionally, the work offered does not meet the wage standard of § 96.5-3-a. For the same reason, the training work offered on March 25 is not disqualifying.

The final 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 section 96.4-3. The claimant has been available for work each week he filed and has been looking for jobs. He was without personal transportation from March 25 to April 6, 2009, but he was available to work in his locality.

DECISION:

The unemployment insurance decision dated March 16, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs