

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEX R SARCENO
Claimant

APPEAL NO. 12A-UI-03495-VST

ANNA ENTERPRISES
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/12/12
Claimant: Respondent (2)

Section 96.5-3-a – Work Refusal

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated March 28, 2012, reference 03, which held that the claimant was eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 24, 2012. The employer participated by Bill Van Sloun, manager. The record consists of the testimony of Bill Van Sloun and Employer's Exhibits 1-2.

ISSUE:

Whether the claimant refused an offer of suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary staffing agency. The claimant accepted his first assignment from the employer on July 6, 2011, which only lasted for two days. He accepted another assignment at Quality Manufacturing on November 9, 2011. That assignment ended on February 12, 2012. He earned \$12.00 per hour and worked 40 hours per week. The employer offered him another position on February 20, 2012, which paid \$12.00 per hour and was for 40 hours per week. The claimant accepted the position and made arrangements to have a drug screen at 1:00 p.m. on February 20, 2012. He then called and declined the offer at 1:27 p.m.

The claimant established a claim for unemployment insurance benefits with an original claim date of February 12, 2012. He has never called in and made a claim for benefits since establishing the claim.

REASONING AND CONCLUSIONS OF LAW:

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. 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.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

871 IAC 24.24(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

The offer made by the claimant's employer was within eight days of the end of his previous assignment. It was for the same hourly rate and for the same amount of hours. The claimant first accepted and then declined the offer. The claimant did not testify at the hearing and his reasons for declining the job offer are unknown. The administrative law judge concludes that the claimant refused an offer of suitable work. Accordingly, benefits are denied.

DECISION:

The unemployment insurance decision dated March 28, 2012, reference 03, is reversed. The claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs