

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID T BELL
Claimant

APPEAL NO. 10A-UI-10352-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LA LEASING
Employer

OC: 03/28/10
Claimant: Respondent (1)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, LA Leasing, filed an appeal from a decision dated July 16, 2010, reference 02. The decision allowed benefits to the claimant, David Bell. After due notice was issued, a hearing was held by telephone conference call on September 8, 2010. The claimant participated on his own behalf. The employer participated by Unemployment Benefits Administrator Colleen McGuinty and Account Manager Sammy Teel.

ISSUE:

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

FINDINGS OF FACT:

David Bell began employment with LA Leasing on April 25, 2008. His last assignment ended March 2, 2010, and he filed a claim for unemployment benefits effective March 29, 2010. His average weekly wage during his base period was \$522.08.

On June 12, 2010, Account Manager Sammy Teel contacted him and offered him two assignments. The first was At Bonnett Wholesale Florist for a full-time, temp-to-hire at \$8.25 per hour. He declined, as the rate of pay was too low.

The second assignment was at KVS Quad for third shift production work at \$9.90 per hour. He declined that assignment because he was not available for third shift.

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.

The claimant was not obligated to accept the assignment at Bonnett, because the rate of pay would only have been \$330.00 per week. Under the provisions of the above Code section, he was not obliged to accept any job with a pay of less than 75 percent of his average weekly wage, which was \$391.50.

The second assignment was refused because it was for third shift. The claimant maintained he had never indicated he was willing or able to work third shift. The employer disputed this, stating he had, from time to time, indicated he would work "any shift," but there is no evidence to overcome the claimant's denial of this.

The record establishes the claimant refused the offers of work for valid reasons and disqualification may not be imposed.

DECISION:

The representative's decision of July 16, 2010, reference 02, is affirmed. David Bell is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw