

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARSALIS JONES

Claimant

APPEAL NO. 11A-UI-11110-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC

SEDONA STAFFING

Employer

OC: 05/01/11

Claimant: Appellant (1)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Marsalis Jones filed a timely appeal from an unemployment insurance decision dated August 16, 2011, reference 07, that disqualified him for benefits. After due notice was issued, a hearing was held in Cedar Rapids, Iowa October 26, 2011. Mr. Jones did not respond when paged at the time of the hearing. Scarlett Linn and Coleen McGuinty participated for the employer, Sedona Staffing. The administrative law judge takes official notice of Agency benefit payment records and the claimant's appeal record.

ISSUE:

Did the claimant refuse a suitable offer of work?

FINDINGS OF FACT:

On or about July 18, 2011 Account Manager Scarlett Linn offered an assignment to Marsalis Jones to work from four to six weeks at a company known as Pigott. The job would pay \$8.50 per hour. Mr. Jones declined the assignment, stating that he was scheduled to work a one-day assignment for another company on July 19. Mr. Jones filed a claim for unemployment insurance benefits for the week ending July 23, 2011. He listed no wages for that week. In his appeal letter, Mr. Jones stated that he declined the assignment from Sedona Staffing because he was going through an interview process with Wal-Mart. He did not mention that when speaking to Ms. Linn.

The assignment offered by Sedona would have paid \$8.50 per hour for a 40-hour week or \$340.00 per week. Mr. Jones' average weekly wage in the highest quarter of his base period was \$450.52. The offered wage was more than 75 percent of Mr. Jones' average weekly wage. The offer was made during the sixth through twelfth weeks of Mr. Jones' unemployment insurance claim.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant refused a suitable offer of work. It does.

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 evidence establishes that the offer met the wage portion of the suitability test. There is no evidence indicating that the job was beyond Mr. Jones' capabilities. His statements to Ms. Linn and to the Appeals Bureau in his appeal letter are contradictory. The administrative law judge finds no good reason for the refusal. Benefits are withheld.

DECISION:

The unemployment insurance decision dated August 16, 2011, reference 07, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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