

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TROY W MERRIFIELD
Claimant

APPEAL NO. 08A-UI-03962-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANTAGE HOME BUILDING INC
Employer

**OC: 01/13/08 R: 03
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 April 14, 2008, reference 05, that concluded the claimant was not subject to disqualification for failing to accept suitable work. A telephone hearing was held on May 7, 2008. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Brandon Combs participated in the hearing on behalf of the employer.

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 full time for the employer from October 2007 to January 16, 2008. After January 16, 2008, the claimant was laid off due to severe winter weather conditions.

When the weather improved, the owner of the business, Brandon Combs, telephoned the claimant to call him back to work. The claimant did not answer, so Combs left a message on the claimant's voice mail informing him that the employer was back to work. Combs only called once and did not send a letter to the claimant recalling him back to work. Whether the claimant actually got the message and when he got the message is not known.

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....

The unemployment insurance rules provide that a claimant must be personally notified about an offer of work before he is disqualified under the statute. A registered letter can also be used in the case of a recall back to work. 871 IAC 24.24(1)a.

In this case, the claimant was not notified personally or by registered letter about the recall back to work. Whether the claimant actually got the message and when he got the message is not known based on the evidence. The evidence does not establish that the claimant was unable to work or unavailable for work. The employer mentioned in his testimony that he had heard from somebody that the claimant was going through rehabilitation, but this amounts to uncorroborated hearsay, and the employer did not know when that happened.

DECISION:

The unemployment insurance decision dated April 14, 2008, reference 05, 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/kjw