

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JACK R HOOK JR**  
Claimant

**APPEAL NO. 07A-UI-04807-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**USA STAFFING INC**  
Employer

**OC: 11/26/06 R: 01  
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 May 7, 2006, reference 04, that concluded the claimant was laid off. A telephone hearing was held on May 29, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Doug Conrad participated in the hearing on behalf of the employer.

**ISSUES:**

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 filed a new claim for unemployment insurance benefits with an effective date November 26, 2007. His average weekly wage based on his highest quarter of earnings in his base period was \$419.60.

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer on an assignment at Americold in Fort Dodge, Iowa, from March 30 to April 12, 2007. His rate of pay was \$7.50 per hour. He completed that assignment.

The claimant filed an additional claim for unemployment insurance benefits with an effective date of April 8, 2007.

On April 25, 2007, the claimant was offered a full-time job working as an inventory worker for a company called Hogslat in Humboldt, Iowa. The job is about 16 miles from Fort Dodge where the claimant lived. He declined the job because his car had broken down, and he did not have transportation outside Fort Dodge.

On April 27, 2007, the employer offered the claimant the opportunity to apply for a job at Ingram Construction in Webster City about 20 miles from the claimant's residence. He declined to apply for the job due to his transportation problems.

On May 3, 2007, the claimant was offered a part-time job two or three days per week working for a janitorial firm, Wade & Associates at a rate of pay of \$10.00 per hour. The claimant declined the job due to his transportation before he was informed about the hours, rate of pay, or the fact that the company provides transportation to the jobsite.

The claimant was actively looking for work in the Fort Dodge area and could have accepted jobs in Fort Dodge even though his car was broken down. The claimant was in the process of buying another car so he would have reliable transportation on May 3, 2007, when he got the call about the Wade & Associates job. The claimant purchased the car that day.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

### **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.

The evidence establishes the claimant declined the job at Hogslat due to the commuting distance and the fact that his car broke down. Because the claimant had only been unemployed for about two weeks when the job was offered and the job was outside Fort Dodge where the claimant had been working, I conclude the job offered was unsuitable and the claimant had good cause to decline the job.

The claimant cannot be disqualified for failing to apply for a job unless the job is one the Department directs the claimant to apply for. Therefore, the claimant is not subject to disqualification in regard to the Ingram Construction job. The claimant is not disqualified for declining the part-time job at Wade & Associates because his weekly pay would have been less than \$419.60, which would be required since the job was offered during the five weeks following his filing his additional claim for benefits.

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 evidence establishes the claimant was actively seeking employment in Fort Dodge and was able to work in Fort Dodge, which was the town in which he lived and worked prior to becoming unemployed. The evidence shows he was able to and available for work.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

**DECISION:**

The unemployment insurance decision dated May 7, 2006, reference 04, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css