

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

FRANCISCO CHAVEZ
906 WALKER
DES MOINES IA 50316

COPPER CREEK GOLF COURSE LC
140 ARMY POST RD
WEST DES MOINES IA 50265

Appeal Number: 04A-UI-07666-SWT
OC: 11/23/03 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-3-a - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 15, 2004, reference 02, that concluded he had failed to accept an offer of suitable work without good cause. A telephone hearing was held on August 10, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of an interpreter, Guadalupe McCarney. Joe Pfiffner participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full-time for the employer as a groundskeeper from July 1998 to November 26, 2003. The claimant was laid off temporarily and was expected to return to work around April 1, 2004.

The employer recalled the claimant to work starting April 1, 2004. The claimant would have had the same job at the same rate of pay of \$10.54 per hour plus overtime. This rate of pay is comparable to the going rate of pay for similar work in the Des Moines area. The claimant declined the offer of work because he was planning to move to another state. The claimant did that have another job lined up at the time that he refused work offered by the employer. Ultimately, the claimant decided not to move but the employer had already filled his position.

The claimant filed a new claim for unemployment insurance benefits with an effective date of November 23, 2003. The claimant's average weekly wage based on the highest quarter of earnings in his base period equaled \$658.30. The claimant's failure to accept work took place after the claimant's 18th week of unemployment.

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 claimant failed to accept an offer of suitable work without good cause. The job was the same as the job the claimant had performed in the past. The wages offered for the job were the same as when he was laid off and were not less than 65 percent of his average weekly

wage, which would equal \$427.90. The claimant did not have any other job lined up at the time and had not moved at the time he declined the offer of work. The reason for declining the job does not meet the definition of good cause under the unemployment insurance law. The claimant is disqualified from receiving unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated July 15, 2004, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/b