

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ARMEN V VANSOYOC
Claimant

APPEAL 17A-UI-02425-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ICE HOUSE DRIVE IN LLC
Employer

**OC: 12/25/16
Claimant: Appellant (2)**

Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 22, 2017, (reference 01) unemployment insurance decision that denied benefits based upon refusing an offer of work. After due notice was issued, a telephone conference hearing was held on March 28, 2017. Claimant participated. Employer participated through Ben Reineke, Owner.

ISSUES:

Was a suitable offer of work made to the claimant?

If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant in-person on February 5, 2017. That offer included the following terms: Claimant would no longer be a salaried employee. Claimant would be paid \$14.00 an hour, and would be on-call with no guarantee of the number of hours he would be working. Claimant's average weekly wage is \$558.00. The offer was made in the 6th week of unemployment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the offer of work was not suitable.

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.24(14)a, b provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

The offer was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable.

DECISION:

The February 22, 2017, (reference 01) unemployment insurance decision is reversed. The offer of work was not suitable as it did not specify the number of hours claimant would be working, and it was not for full-time work.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

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