

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN R MILLER**

Claimant

**APPEAL NO. 14A-UI-04891-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AVENTURE STAFFING & PROFESSIONAL**

Employer

**OC: 02/09/14**

**Claimant: Appellant (2)**

Iowa Code Section 96.5(3) – Refusal of Suitable Work

**STATEMENT OF THE CASE:**

Steven Miller filed a timely appeal from the May 2, 2014, reference 04, decision that disqualified him for benefits based on an agency conclusion that he had willfully discouraged Aventure Staffing & Professional from hiring him on February 10, 2014. After due notice was issued, a hearing was held on May 30, 2014. The hearing in this matter was consolidated with the hearing in Appeal Number 14A-UI-04890-JTT. Mr. Miller participated. Deb Miller represented the employer.

**ISSUE:**

Whether the claimant refused an offer of suitable work on or about February 10, 2014.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Aventure Staffing & Professional is a temporary employment agency. Steven Miller began his employment with Aventure Staffing in 2012. Prior to establishing the claim for benefits that was effective February 9, 2014, Mr. Miller performed work in three full-time, temporary, machine-operator work assignments at Montezuma Manufacturing in Montezuma. Prior to establishing the claim for benefits that was effective February 9, 2014, Mr. Miller last performed work for the employer on February 8, 2014. Mr. Miller has generally worked the third shift at Montezuma Manufacturing, with an 11:30 p.m. start time. The assignments at Montezuma Manufacturing have paid \$14.00 per hour. At all relevant times, Mr. Miller has lived approximately 10 miles southwest of Grinnell. Mr. Miller commuted to Montezuma.

On February 10, 2014, Mr. Miller contacted the employer's Grinnell office and spoke with Roxanne Minner, Branch Manager. Ms. Minner used the opportunity to talk to Mr. Miller about an assignment in Williamsburg. The Williamsburg facility was a sister company to Montezuma Manufacturing and the assignment there would entail similar machine operator work. Ms. Minner told Mr. Miller that he could choose his shift. Ms. Minner told Mr. Miller that the work would be 40 hours per week, and would pay \$12.00 per hour. In other words, the work would pay \$480.00 per week. Mr. Miller asked whether the assignment would be temporary or long-term. Ms. Minner did not know. The work would involve a 50-mile commute. Mr. Miller rejected

the assignment due to the wage and the commuting distance, which commuting distance was substantially longer than the commuting distance from Mr. Miller's home to Montezuma.

Mr. Miller's highest earning base period quarter was the fourth quarter of 2012, when his average weekly wage from the assignment at Montezuma Manufacturing was \$775.79.

### **REASONING AND CONCLUSIONS OF LAW:**

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 weight of the evidence in the record establishes that the employer made a bona fide offer of work to Mr. Miller on March 10, 2014. The work was not suitable, due to the wage offered, which did not equal 100 percent of Mr. Miller's average weekly wage during his highest earning

base period quarter. The work was not suitable due to the long commute. Mr. Miller's refusal of the offer of work on February 10, 2014 did not disqualify him for unemployment insurance benefits. Despite the work refusal, Mr. Miller remained eligible for benefits provided he met all other eligibility requirements.

**DECISION:**

The claims deputy's May 2, 2014, reference 04, is reversed. The claimant rejected an offer of unsuitable work on February 10, 2014 and did so for good cause. The claimant's refusal of the offer of work on February 10, 2014 did not disqualify him for unemployment insurance benefits. Despite the work refusal, claimant remained eligible for benefits provided he met all other eligibility requirements.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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