

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TREYTON E JANSMA**  
Claimant

**PRAIRIE MEADOWS RACETRACK &  
CASINO**  
Employer

**APPEAL 21A-UI-15874-AR-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/26/20**  
**Claimant: Appellant (1R)**

Iowa Code § 96.4(3) - Able and Available  
Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The claimant, Treyton E. Jansma, filed an appeal from the July 16, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the determination that claimant refused recall to a suitable offer of work from the employer, Prairie Meadows Racetrack & Casino. The parties were properly notified of the hearing. A telephone hearing was held on September 8, 2021. The claimant participated personally. The employer participated through Pam Anderson. The administrative law judge took official notice of the administrative record.

**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 reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a server's assistant beginning on October 10, 2019. He was separated from employment by layoff on May 3, 2020, though he was considered eligible for recall for a year.

On August 10, 2020, Manager Zach Hitchcock called claimant and asked him if he would be interested in returning to work. Prior to the COVID-related shutdown, the restaurant where claimant worked was open seven days per week. Claimant worked four or five days per week prior to the May 2020 layoff. When Hitchcock offered to recall claimant in August 2020, the restaurant was only open four days per week. However, there was work available for claimant. While his hours may have reduced somewhat, they would not have reduced substantially. Claimant feared, though, that he would only receive about half of the hours to which he was accustomed. He told Hitchcock that, because of the reduced hours, he would not return to work with this employer, and would look for other employment.

Claimant's pay would have remained the same, or increased slightly according to the Collective Bargaining Agreement, as compared to prior to his initial separation. In May 2020, claimant earned \$9.15 per hour, plus tips. His wage would have been increased in either June or July 2020 by 1.5%. Claimant's rate of pay was higher than the prevailing rate of pay for the type of work in the area.

The administrative record indicates that claimant may have requalified for benefits since August 10, 2020, when this work refusal happened. The issue of whether claimant has requalified shall be remanded to the Benefits Bureau for a determination.

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

For the reasons that follow, the administrative law judge concludes the claimant failed to accept a suitable offer of work.

Iowa Code § 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(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

Claimant refused the recall to work because he feared his hours would be reduced substantially, by about half. However, the employer offered credible testimony that, though a slight reduction in hours was possible, it was unlikely that such a reduction would be substantial as compared to the hours claimant was accustomed to working prior to the onset of the COVID-19 pandemic. The offer was suitable as claimant was offered similar work and hours as prior to the initial layoff period and claimant did not have a good cause reason for the failure to accept it.

**DECISION:**

The July 16, 2021, (reference 01) unemployment insurance decision is affirmed. Claimant failed to accept a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

**REMAND:**

The issue of whether claimant has earned wages equal to ten times his weekly benefit amount, and has therefore requalified, is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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Alexis D. Rowe  
Administrative Law Judge

September 17, 2021  
Decision Dated and Mailed

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