

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

KEVIN L HENDRICKSON
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KEOKUK IA 52632

BERGMAN'S NURSERY
3607 N 12TH ST
QUINCY IL 62301

Appeal Number: 06A-UI-03954-H2T
OC: 01-01-06 R: 04
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)

Iowa Code section 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 28, 2006, reference 01, decision that denied benefit based upon his refusal of an acceptable offer of work. After due notice was issued, a hearing was held on April 27, 2006. The claimant did participate along with his witness Matt High. The employer did participate through Todd Friye, Vice President and Trevor Friye, Vice President.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant on March 6, 2006. That offer included the following terms: full time, 40 hours per week with some possibility of overtime based upon weather, paying \$12.00 per hour. The claimant would have been paid \$480.00 per week without overtime. The

claimant was being asked to return from a layoff in January 2006 to the same job, landscape foreman, that he had previously performed. Claimant's average weekly wage is \$517.24. The offer was made in the 11th week of unemployment. Seventy-five percent of the claimant's average weekly wage is \$387.93. Claimant declined the offer because he wanted more money per hour to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of work.

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 offer was suitable as it was the same hours, wages and job duties that the claimant had previously performed for the employer. The claimant did not have a good-cause reason for the refusal. Benefits are denied.

DECISION:

The March 28, 2006, reference 01, decision is affirmed. Claimant did refuse 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.

tkh/kkf