

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHANY C COUNTRYMAN
Claimant

APPEAL NO. 12A-UI-14614-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LF STAFFING SERVICES INC
Employer

OC: 11/18/12
Claimant: Respondent (1)

Section 96.5-3-a – Refusal of Suitable Work
871 IAC 24.24(8) – Offer of Work/Refusal Not Within Benefit Year

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated December 3, 2012, reference 03, which held claimant eligible to receive unemployment insurance benefits finding that claimant did not accept an offer of work with LF Staffing Services, Inc. on August 29, 2012 but finding the claimant was not subject to a benefit disqualification because he did not have a valid unemployment claim. After due notice was provided, a telephone hearing was held on January 15, 2013. Although duly notified, the claimant did not participate. The employer participated by Mr. Jim Clyde, Assistant Manager.

ISSUE:

The issue is whether the claimant is subject to a benefit disqualification for a work refusal that took place outside his benefit year.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Anthany Countryman was employed by LF Staffing Services, Inc. beginning on November 14, 2011. On August 29, 2012, the claimant was offered but did not accept an offer to return to employment where he had previously been employed through LF Staffing Services, Inc. The claimant was offered the same pay and duties but did not accept the offer. At the time of the offer and refusal the claimant did not have a valid claim for unemployment insurance benefits. Mr. Countryman claimed benefits with an original claim date of November 18, 2012.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant is subject to a benefit disqualification for a work refusal that took place outside his benefit year. He is not.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The evidence in the record establishes that the offer of work and the claimant's refusal did not take place during the time that Mr. Countryman had a valid claim for unemployment insurance benefits. Because Mr. Countryman was not claiming unemployment insurance benefits at the time of the work refusal, he is not subject to a benefit disqualification for the refusal that took place on or about August 29, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated December 3, 2012, reference 03, is affirmed. The claimant is eligible to receive unemployment insurance benefits. Claimant is not subject to a benefit disqualification for refusal to accept an offer of work that took place on August 29, 2012 as that was not within the time that the claimant had a valid claim for unemployment insurance benefits.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs