

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT W JOHNSON
Claimant

APPEAL NO. 13A-UI-06942-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 03/24/13
Claimant: Respondent (1)

Section 96.5-3-a - Failure to Accept Suitable Work
Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated June 7, 2013, reference 02, that concluded the claimant was not disqualified for failing to accept work offered on May 17, 2013. A telephone hearing was held on July 11, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Maria Mays participated in the hearing on behalf of the employer with a witness, Renee Nurre.

ISSUES:

Did the claimant fail to accept an offer of suitable work without good cause?
Was the claimant able to and available for work?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time on an assignment at McGraw-Hill as a technical support agent at an ending rate of pay of \$11.50 per hour from July 2012 to March 1, 2013, when he quit due to a change in his shift. The job involved answering computer support questions. The Agency determined the claimant was eligible for benefits based on that separation from employment in a decision issued on May 4, 2013. That decision was not appealed by the employer.

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 24, 2013. His average weekly wage based on the highest quarter of wages in his base period is \$226.00.

On May 16, 2013, the employer offered the claimant a part-time job working on an assignment at Schueller Hard Surface Restoration as a telemarketer. The job involved 20 hours of work per week at a rate of pay of \$8 per hour plus commissions.

The claimant has an associate's degree in information systems. His past work experience includes working as an electrician, computer repair person, and over-the-road truck driver. The claimant declined the job because he believed sales work was not suitable. The claimant has continued to look for full-time suitable work.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

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....

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.

The work offered the claimant was not suitable based on the claimant's past training and work experience. It also was a low-paying part-time job compared to the claimant's prior employment.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The evidence is clear that the claimant had remained able to, available for, and actively looking for suitable work.

DECISION:

The unemployment insurance decision dated June 7, 2013, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs