

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WOODROW W YOUNG

Claimant

APPEAL NO. 09A-UI-02589-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON INDUSTRIAL SERVICES

Employer

OC: 01/04/09

Claimant: Appellant (1)

Section 96.5-3-a – Suitable Work Refusal

STATEMENT OF THE CASE:

Woodrow Young filed a timely appeal from a February 10, 2009, reference 03, decision of a representative that held the claimant had refused to accept suitable work on January 7, 2009 and held him ineligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 12, 2009. The claimant participated. The employer participated by Elizabeth Jerome, Account Manager.

ISSUE:

The issue in this matter is whether the claimant refused to accept suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Mr. Young was employed through Jacobson Industrial Services on a long-term assignment at the rate of \$7.25 per hour. After being removed from that assignment on January 6, 2009, the claimant was offered a new assignment at or near the location of the previous assignment paying \$7.50 per hour. The new assignment was also long-term as a warehouse worker. Mr. Young declined that offer of work, the following offer for assignment with the same employer was made the following day, January 8, 2009. The claimant declined the offer because a urinalysis drug screen was required. At the time that Mr. Young accepted employment with Jacobson Industrial Services he was informed that the majority of job assignments require drug screens.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes Mr. Young had good cause for refusing suitable work. It does not.

The administrative law judge concludes based upon the evidence in the record that the offer of work made to Mr. Young on January 7, 2009 was suitable in view of his past employment, pay and the nature of work that was acceptable to the claimant. Mr. Young did not reject the offer

because of pay as the pay was higher per hour. The claimant's sole reason for rejecting the offer of suitable work was because he objected to the requirement that he take a drug screen for the position. The administrative law judge concludes based upon the evidence in the record that Mr. Young was aware at the time of hire with Jacobson Industrial Services that drug screening was required for almost all positions available through the temporary employment service.

871 IAC 24.24(4) provides:

(4) Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3). Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

The administrative law judge concludes based upon the evidence in the record that the offer of work was suitable and the claimant's refusal was without good cause. The claimant was aware at the time of hire that drug screens were required for almost all positions available through Jacobson Industrial Services. The claimant's refusal to accept employment based upon a known employment criteria was without good cause within the meaning of the Iowa Employment Security Act.

DECISION:

The representative's decision dated February 10, 2009, reference 03, is affirmed. The claimant refused to accept suitable work. Unemployment insurance benefits are withheld until the claimant has earned ten times his weekly benefit amount, providing that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs