

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BRUCE T MCALLISTER**  
Claimant

**APPEAL 21A-UI-06776-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES INC**  
Employer

**OC: 12/13/20  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.5(3) – A&A – Work Refusal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the February 25, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 13, 2021, at 2:00 p.m. Claimant participated. Employer participated through Jamie Scott, Human Resources Manager. Employer's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant is able to and available for work.  
Whether claimant refused to apply for or accept an offer of suitable work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: DES Staffing Services offered claimant employment on July 27, 2020 and September 21, 2020. Claimant declined the offers. Claimant filed an initial claim for benefits effective December 13, 2020. Claimant's benefit year began December 13, 2020 and ends December 12, 2021. DES Staffing Services made no offers of employment to claimant on or after December 13, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

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 96.1A, subsection 38, paragraph "b", subparagraph (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".

Iowa Code section 96.5(3) provides in pertinent part:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.24(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.

In this case, DES Staffing Services offered claimant work on July 27, 2020 and September 21, 2020, but claimant's benefit year did not begin until December 13, 2020. Accordingly, the administrative law judge does not have jurisdiction to evaluate the offer or refusal of work, because the offer was made outside of the benefit year.

**DECISION:**

The February 25, 2021 (reference 01) unemployment insurance decision is reversed. Claimant refused to accept an offer of work made outside of his benefit year. Therefore, the administrative law judge lacks jurisdiction to determine the suitability of the offer. Benefits are allowed provided claimant is otherwise eligible.



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Adrienne C. Williamson  
Administrative Law Judge

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May 21, 2021  
Decision Dated and Mailed

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