

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFF L BENEFIEL**

Claimant

**APPEAL NO. 06A-UI-11143-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JR PAINTING & DECORATING INC**

Employer

**OC: 10/22/06 R: 04  
Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work

**STATEMENT OF THE CASE:**

The employer, JR Painting & Decorating, Inc. (JR Painting), filed an appeal from a decision dated November 17, 2006, reference 01. The decision allowed benefits to the claimant, Jeff Benefiel. After due notice was issued, a hearing was held by telephone conference call on December 5, 2006. The claimant participated on his own behalf. The employer participated by President John Rios.

**ISSUE:**

The issue is whether the claimant refused an offer of available work without good cause.

**FINDINGS OF FACT:**

Jeff Benefiel had been employed with JR Painting and was laid off in August 2005. The employer attempted to contact him to return to work in November 2005, but his phone had been disconnected. In September 2006, the claimant contacted President John Rios about the possibility of returning to work as he was about to be laid off by his current employer.

Mr. Rios agreed to return the claimant to work but reminded him he would have to undergo a physical and take a drug test before doing so. Mr. Benefiel agreed and said he would need two or three weeks to notify his current employer and finish up his work. JR Painting had no contact from the claimant after that time.

**REASONING AND CONCLUSIONS OF LAW:**

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 record does not establish there was any firm offer of work made by JR Painting to the claimant. There was only an offer to make arrangements to take the physical and the drug test, which were required before going on the payroll. As the claimant did not subsequently contact the employer to take the physical and the tests, there was no firm offer of work. Disqualification may not be imposed.

**DECISION:**

The representative's decision of November 17, 2006, reference 01, is affirmed. Jeff Benefiel is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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