

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GEORGE A BUTLER**

Claimant

**APPEAL NO. 10A-UI-15826-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAMBRIDGE TEMPOSITIONS**

Employer

**OC: 09/12/10**

**Claimant: Appellant (2)**

Section 96.5-3-a – Refusal to Accept Suitable Work

**STATEMENT OF THE CASE:**

George Butler (claimant) appealed a representative's November 10, 2010 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he refused suitable work with Cambridge TEMPositions (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 29, 2010. The claimant participated personally. The employer participated by Victor Ochoa, Account Manager.

**ISSUE:**

The issue is whether the claimant refused suitable work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant worked off and on as a temporary employee from February 28, 2007, through January 28, 2010. On February 22, 2010, the employer thought he offered work to the claimant, but the claimant did not receive the telephone call.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did not refuse an offer of suitable work.

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 claimant did not receive an offer of work on February 22, 2010. He is eligible to receive unemployment insurance benefits

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible. The employer's computer server lost information regarding the claimant's work history.

**DECISION:**

The representative's November 10, 2010 decision (reference 02) is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw