

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATHEW K ABDULBAKI**  
Claimant

**APPEAL NO. 14A-UI-08540-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 07/06/14**  
**Claimant: Respondent (1)**

Iowa Code Section 96.5(5)(3) – Refusal of Suitable Work

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 11, 2014, reference 03, decision that allowed benefits to the claimant provided he was otherwise eligible, based on an Agency conclusion that the claimant had good cause for not accepting an offer of employment on July 28, 2014. After due notice was issued, a hearing was held on September 8, 2014. Claimant Mathew Abdulbaki did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Lori Mullen represented the employer. The hearing in this matter was consolidated with the hearing in Appeal No. 14A-UI-08539-JTT. Exhibits One through Five were received into evidence. The administrative law judge took official notice of the Agency's record (DBRO) of benefits disbursed to the claimant. The administrative law judge took official notice of the fact-finding materials for the limited purpose of determining whether the employer participated in the fact-finding interview and determining whether the claimant engaged in fraud and/or dishonesty in connection with the fact-finding interview.

**ISSUE:**

Whether the claimant refused an offer of suitable work on July 28, 2014 without good cause.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mathew Abdulbaki was employed by Wal-Mart in Creston as a full-time overnight grocery stocker from July 2013 and last performed work for the employer on July 5, 2014. On that day, the employer suspended Mr. Abdulbaki without pay based on an allegation that Mr. Abdulbaki and a co-worker had engaged in an argument that escalated to threats of violence. The employer did not make further contact with Mr. Abdulbaki until July 28, 2014 at which time the employer told Mr. Abdulbaki he could return to work.

Mr. Abdulbaki filed a claim for benefits that was effective July 6, 2014 in response to the indefinite suspension. Mr. Abdulbaki received \$960.00 in benefits for the five-week period of July 6, 2014 through August 9, 2014.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 evidence indicates that the employer did indeed offer work to Mr. Abdalbaki on July 28, 2104. The work was the same work Mr. Abdalbaki had previously performed for the employer. The offer occurred in the context of the employer leaving Mr. Abdalbaki hanging for 23 days while the employer purportedly investigated an incident from July 3, 2014. During that time, Mr. Abdalbaki had reasonably concluded that he was discharged from the employment. Given the employer's handling of the suspension/discharge and its detrimental impact on the claimant, the claimant had good cause for refusing to return to the employer. Mr. Abdalbaki's July 28, 2014 refusal of work from Wal-Mart does not disqualify him for unemployment insurance benefits. Mr. Abdalbaki remains eligible for benefits, provided he is otherwise eligible.

**DECISION:**

The Claims Deputy's August 11, 2014, reference 03, decision is affirmed. The claimant had good cause for refusing the July 28, 2014 offer of employment. The claimant remains eligible for the benefits he received for the five-week period of July 6, 2014 through August 9, 2014, provided he was otherwise eligible.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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