

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KENTON C ANGERMAN
Claimant

SHORT STAFFED INC
Employer

APPEAL NO. 14A-UI-10433-GT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/07/14
Claimant: Appellant (1)**

Iowa Code § 96.4-3 – Able and Available
Iowa Code §96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 1, 2014, reference 02, which held claimant was not able and available for work, and that he refused an offer of suitable work. After due notice, a hearing was scheduled for and held on October 27, 2014. Claimant participated personally. Employer participated by Julie Klein, Officer Manager.

ISSUES:

The issues in this matter are whether claimant is able and available for work, and whether claimant refused to accept an offer of suitable employment.

FINDINGS OF FACT:

Employer made an offer of work to claimant on September 12, 2014. The offer was for a different shift and claimant would not be working in sales, but the hours worked per week and wages would be the same. The offer was made during the first five weeks of unemployment, and the gross weekly wage would have been equal to claimant's average weekly wage during the highest quarter in his base period.

Claimant was unable to accept the offer for work because he did not have suitable transportation to and from work at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of work.

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.

Iowa Admin. Code r. 871-24.23(4) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7)).

The offer was suitable as it provided a wage that was equal to or greater than the average gross weekly wage paid during the highest quarter of claimant's base period, and claimant did not have a good-cause reason for the refusal. Benefits are denied.

DECISION:

The October 1, 2014, reference 02, decision is affirmed. Claimant did refuse a suitable offer of work. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/pjs