

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DEVON T RAMIREZ**  
Claimant

**APPEAL 19A-UI-05399-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**  
Employer

**OC: 09/23/18  
Claimant: Appellant (1)**

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Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

On July 5, 2019, Devon T. Ramirez (claimant) filed a timely appeal from the June 24, 2019, reference 06, unemployment insurance decision that denied benefits based upon the determination he refused a suitable offer of work with QPS Employment Group, Inc. (employer). After due notice was issued, a telephone conference hearing was held on July 31, 2019 and consolidated with the hearing for appeal 19A-UI-05400-SC-T. The claimant participated personally. The employer participated through Placement Coordinator II and was represented by Unemployment Specialist Mai Lor. The Employer's Exhibit 1 was admitted over the claimant's objection to the truthfulness of the document.

**ISSUES:**

Was a suitable offer of work made to the claimant?  
If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant filed his original claim for unemployment insurance benefits effective September 23, 2018 and reactivated his claim for benefits effective March 10, 2019. The claimant's average weekly wage during the high quarter of his base period is \$402.12.

The employer made an offer of work to the claimant via telephone on March 8, 2019. The offer was for a Machine Operator position working second or third shift, forty hours a week, and earning \$14.00 an hour. The job only required that the claimant have some industrial experience as the employer would provide on-the-job training. The claimant met the minimum qualifications for the position as he had previously worked for the employer in an industrial assignment. The claimant declined the offer stating he would only consider a position paying at least \$16.00 an hour.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to accept a suitable offer of work. Benefits are denied.

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. (1) 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:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

Iowa Admin. Code r. 871-24.24(2) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(2) Job within claimant's capabilities.

a. The job offered must be within the claimant's physical capabilities and require any undue physical skill or particular training which the claimant does not already possess. As the period of unemployment lengthens, work which might originally have been unsuitable may become suitable.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* The findings of fact show how the disputed factual issues were resolved.

The employer offered a position which would have paid approximately \$560.00 a week, which is more than the claimant's average weekly wage for the benefit year. Additionally, the claimant was qualified for the job. The claimant refused a suitable offer of work and has not provided a good cause reason for failing to accept the work. Accordingly, benefits are denied.

#### **DECISION:**

The June 24, 2019, reference 06, decision is affirmed. The claimant failed to accept 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.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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