

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN KETCHAM**  
Claimant

**APPEAL NO. 09A-UI-00607-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ST VINCENT DE PAUL SALVAGE CENTER  
CEDAR RAPIDS COUNCIL**  
Employer

**OC: 10/26/08 R: 03**  
**Claimant: Respondent (1)**

Section 96.5-3-a - Refusal of Suitable Work

**STATEMENT OF THE CASE:**

St Vincent De Paul Salvage Center, Cedar Rapids Council (employer) appealed an unemployment insurance decision dated January 5, 2009, reference 02, which held that John Ketcham (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 29, 2009. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Mary Ballew, Manager. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the employer refused a suitable offer of work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer called the claimant on September 22, 2008 but could only reach his sister. The employer explained that the claimant was needed to return to work and the sister said that she did not think he wanted to return. The employer asked the sister to have the claimant call the employer. The claimant never spoke with the employer. He filed a claim for unemployment insurance benefits effective October 26, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The issue to be determined in this case is whether the claimant refused a reasonable offer of work. An individual who refuses an offer of suitable work is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a.

871 IAC 24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The administrative law judge must first determine if there was a bona fide offer of work. The employer conveyed a job offer to the claimant's sister on September 22, 2008 but never actually spoke with the claimant. Likewise, the employer never sent the claimant a registered letter. Consequently, there was no bona fide offer of work made to the claimant. Furthermore, even if there was a bona fide offer of work, the claimant could not be disqualified because the offer was made prior to him filing a claim for unemployment insurance benefits. Consequently, no disqualification is imposed and the claimant qualifies for benefits, provided he is otherwise eligible.

**DECISION:**

The unemployment insurance decision dated January 5, 2009, reference 02, is affirmed. The claimant did not refuse a suitable offer of work and is qualified for benefits, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css