

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ZACHARY T WELLS
Claimant

L A LEASING INC
SEDONA GROUP
Employer

APPEAL 15A-UI-01728-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/21/14
Claimant: Appellant (2)

Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 2, 2015 (reference 03) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on April 23, 2015. Claimant participated. Employer participated through unemployment benefits administrator Colleen McGuinty and branch manager Shelby Kingery.

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: Employer made an offer of work to claimant via Kingery by phone on January 13, 2015. That offer included the following terms: begin January 14, 2015, Stampede Automotive, four-10 hour days, 5:30 a.m. through 4:30 p.m. The wage offered for the job is \$9; which is comparable to the prevailing rate of pay for similar work in the Camanche area, which is 18 miles from claimant's residence in DeWitt, Iowa. Claimant's average weekly wage is \$410.69. The offer was made in the fourth week of unemployment but claimant only claimed benefits the two weeks ending January 3, 2015 because of a Custom Pak holiday plant shut down where he has been employed since May 5, 2014; initially assigned on a temp-to-hire assignment through DES Staffing. Claimant told Kingery he was not looking for work and would stick with what he was currently doing.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the offer of work was not suitable.

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 offer was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Even were the offer suitable, claimant had a good cause reason for the failure to accept it since he was employed elsewhere and was only temporarily unemployed for a two-week plant shut-down.

DECISION:

The February 2, 2015 (reference 03) unemployment insurance decision is reversed. The offer of work was not suitable. Benefits are allowed, provided claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/can