

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JIM P MORGAN
1440 BLAIRS FERRY RD APT I-7
HIAWATHA IA 52223

ADVANCED SERVICES INC
c/o TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 04A-UI-05684-AT
OC: 04/11/04 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-3a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Advanced Services, Inc. filed a timely appeal from an unemployment insurance decision dated May 10, 2004, reference 03, which allowed benefits to Jim P. Morgan upon a finding that the employer had not made a bonafide offer of work on December 15, 2003. After due notice was issued, a telephone hearing was held June 10, 2004. Human Resources Coordinator Paula Vasquez and Office Manager Tami Beltramea participated for Advanced Services, Inc. Mr. Morgan did not respond to the hearing notice. The administrative law judge takes official notice of Agency benefit payment records.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: On December 15, 2003, Human Resources Coordinator Paula Vasquez offered a temp to hire position at North Liberty Plastics to Jim P. Morgan. The job paid \$8.75 per hour for 40 hours of work per week, Monday through Friday from 7:00 a.m. until 3:00 p.m. Mr. Morgan declined the offer because he did not wish to drive to Cedar Rapids' southwest side, although he had worked other temporary assignments in that area. Mr. Morgan had filed a claim for unemployment insurance benefits effective April 13, 2003. His average weekly wage in the highest quarter of his benefits was \$711.39. Sixty-five percent of that amount is \$462.40. The job offered by Advanced Services, Inc. paid \$350.00 per week.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Mr. Morgan refused a suitable offer of work. It does not.

Iowa Code Section 96.5-2-b provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

b. If gross misconduct is established, the department shall cancel the individual's wage credits earned, prior to the date of discharge, from all employers.

The statute never requires that an individual accept a job that pays less than 65 percent of the individual's average weekly wage in the highest quarter of the base period upon which the individual's benefits are computed. The evidence in this record establishes that the job offered by Advanced Services, Inc. paid 49.20 percent of the average weekly wage that Mr. Morgan had earned in the highest quarter of his base period. Thus, by statutory definition, the offer was unsuitable. No disqualification may be imposed.

DECISION:

The unemployment insurance decision dated May 10, 2004, reference 03, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

kjf/b