

**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**

**JANETTE S LUCKY
508 PRAIRIE
PO BOX 131
STANTON IA 51573**

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

**Appeal Number: 04A-UI-01307-CT
OC: 02/02/03 R: 01
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(3)a – Refusal of Work

STATEMENT OF THE CASE:

Advance Services, Inc. filed an appeal from a representative's decision dated January 27, 2004, reference 03, which held that no disqualification would be imposed regarding Janette Lucky's December 19, 2003 refusal of work. After due notice was issued, a hearing was held by telephone on February 27, 2004. The employer participated by Donna Price, Human Resources. Ms. Lucky did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Lucky was working through Advance Services, Inc. on an assignment at Romech when she was temporarily laid off on December 19, 2003. She was to return to work on December 29. She was contacted on December 19 and offered work with Con Agra during the layoff. The assignment was for 40 hours per week at an hourly rate of \$8.50. Ms. Lucky declined the assignment because of the distance from her home.

At the time of hire, Ms. Lucky indicated that she wanted work within a ten-mile radius of her home. Her assignment with Romech was in Red Oak, approximately ten minutes from her home. The assignment with Con Agra was in Hamburg, approximately 45 minutes from her home. Because she did not want to travel that far, Ms. Lucky declined the work at Con Agra.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether any disqualification should be imposed for Ms. Lucky's refusal of the work offered on December 19. Before a disqualification may be imposed, the evidence must establish that the work offered was suitable work within the meaning of the law. Iowa Code Section 96.5(3)a. The work offered to Ms. Lucky was at least 45 minutes from her home. She had already notified the employer that she was not available for assignments that far from her home. Given the assignment's distance from her home, the administrative law judge concludes that it was not suitable work for her. As such, no disqualification is imposed for the refusal. See 871 IAC 24.24(7)

DECISION:

The representative's decision dated January 27, 2004, reference 03, is hereby affirmed. Ms. Lucky had good cause for refusing the work offered on December 19, 2003. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/b