

**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**

**GUY V COUNTERMAN  
517 EAGLE DR  
DAKOTA CITY NE 68731**

**COREY'S ABC ASSOCIATES INC  
ALLIED PROPERTY MANAGEMENT  
3713 GORDON DR  
SIOUX CITY IA 51106**

**REBECCA NELSON  
ATTORNEY AT LAW  
522 – 4<sup>TH</sup> ST #300  
SIOUX CITY IA 51101**

**HUGHES ANDERSON BAGLEY JR  
PARALEGAL  
520 BENSON BLDG – 705 DOUGLAS  
SIOUX CITY IA 51101**

**Appeal Number: 05A-UI-00257-CT  
OC: 10/03/04 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, 4<sup>th</sup> 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:**

Corey's ABC Associates, Inc. (Corey's) filed an appeal from a representative's decision dated December 27, 2004, reference 02, which held that no work had been offered to Guy Counterman on October 1, 2004. After due notice was issued, a hearing was commenced by telephone on January 25, 2005. The hearing was recessed and concluded on January 28, 2005. Mr. Counterman participated personally and offered additional testimony from Valerie Counterman. Mr. Counterman was represented by Hughes Anderson Bagley, Jr., Paralegal. The employer participated by Nicholas Corey, Owner; Greg Holden, Bookkeeper/Personnel; and William Barber, Investigator with Intra-Lex Investigations. The employer was represented by Rebecca Nelson, Attorney at Law.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Counterman last performed services for Corey's on October 1, 2004. He worked primarily in construction but also did landscaping and yard work as assigned. He and his wife, Valerie Counterman, gave the employer notice on October 8, 2004 that they were quitting. Their conversation with the employer on October 1 concerned a change in their job sites.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Counterman was offered work by Corey's on October 1, 2004. The administrative law judge concludes that he was not. A discussion as to which job site he was going to be assigned did not constitute an offer of work within the meaning of Iowa Code section 96.5(3)a. It stands to reason that an employer does not offer a work opportunity to someone already employed by the company. The only work established by the evidence was sporadic self-employment opportunities offered by an investigator hired by Corey's. The administrative law judge concludes that the self-employment offered did not constitute suitable work within the meaning of the law. Therefore, no disqualification may be imposed for the refusal.

DECISION:

The representative's decision dated December 27, 2004, reference 02, is hereby affirmed. There was no offer of suitable work by or on behalf of Corey's at any point since Mr. Counterman filed his claim for job insurance benefits. Benefits are allowed, provided he satisfies all other conditions of eligibility and has no disqualifications on his claim.

cfc/b