

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

TYRELL J DERMER
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GLADSTONE IL 61437

FIRST CONSTRUCTION GROUP INC
3729 WEST AVE
BURLINGTON IA 52601

Appeal Number: 04A-UI-01062-SWT
OC 12/14/03 R 12
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 - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 29, 2004, reference 02, that concluded the claimant had not refused an offer of work. A telephone hearing was held on February 19, 2004. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Melinda Hentzel participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 14, 2003. He filed for benefits for the week ending December 20, 2003, and then stopped filing claims. The claimant had formerly worked for the employer and the employer received notice that the claimant had filed for unemployment insurance benefits. The employer attempted unsuccessfully to contact the claimant by phone about a potential job offer but never

was able to talk to him. On February 6, 2004, the employer sent the claimant a certified letter stating the there was a job for the claimant but did not provide any details about the job.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause. Iowa Code Section 96.5-3-a disqualifies an individual who fails to accept an offer of suitable work without good cause. The rules, however, provide that the offer be made by personal contact or certified mail (in the case of a recall to work) and that there must be a definite refusal of work. 871 IAC 24.24(1). The claimant is not subject to disqualification in this case because no personal contact was made and no definite refusal was communicated by the claimant to the certified mail offer and the offer did not provide the terms of employment.

DECISION:

The unemployment insurance decision dated January 29, 2004, reference 02, is affirmed. The claimant is not disqualified for refusing work.

saw/b