

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

RONALD L ADAMS
PARK MOTEL
803 – 4TH AVE S
DENISON IA 51442

WESTERN LIVESTOCK EXPRESS INC
P O BOX 1445
SIOUX CITY IA 51102

Appeal Number: 04A-UI-02585-CT
OC: 02/01/04 R: 01
Claimant: Appellant (2)

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:

Ronald Adams filed an appeal from a representative's decision dated March 3, 2004, reference 04, which denied benefits on a finding that he had refused suitable work with Western Livestock Express, Inc. After due notice was issued, a hearing was held by telephone on March 30, 2004. Mr. Adams participated personally. The employer participated by Nicholas Sjobom, Safety/Compliance Administrator.

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. Adams was employed by Western Livestock Express, Inc. from February 19 until November 20, 2003 as a truck driver. He voluntarily quit the employment after he accepted employment with Randy's Diesel Repair. He sought other employment because he no longer wanted to work nights. He had been working from 8:00 p.m. until 8:00 a.m. He had not worked nights for at least 30 years.

Mr. Adams' employment with Randy's Diesel Repair ended on or about January 30, 2004. He then filed a claim for job insurance benefits effective February 1, 2004. On February 11 and again on March 12, Western Livestock Express, Inc. offered Mr. Adams his former job. He declined the work because he did not want to work nights.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether any disqualification should be imposed as a result of Mr. Adams' refusal of work. An individual who refuses an offer of suitable work is disqualified from receiving job insurance benefits. Iowa Code Section 96.5(3)a. Work offered by a former employer is not considered suitable work if the individual had quit the employment and the conditions which caused the quit are still in existence. See 871 IAC 24.24(14)b. The administrative law judge notes that this regulation does not require that the quit have been for good cause attributable to the employer within the meaning of Iowa Code Section 96.5(1).

Mr. Adams had quit employment with Western Livestock Express, Inc. because he no longer wanted to work nights. He understood that the work being offered on February 11 and March 12 was the same job he had quit on November 20, 2003, a job which required him to work nights. Because the same condition which caused him to quit in November existed in the work which was being offered in February and March, no disqualification is imposed. There is no job insurance liability for Western Livestock Express, Inc.

DECISION:

The representative's decision dated March 3, 2004, reference 04, is hereby reversed. Mr. Adams had good cause for refusing the work offered on February 11 and March 12, 2004. Benefits are allowed, provided he satisfies all other conditions of eligibility. Benefits paid as a result of the decision herein shall not be charged to Western Livestock Express, Inc.

cfc/d