

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

GAYLEEN F RUSK
20757 – 320TH ST
SIOUX CITY IA 51108

FRESH START JANITORIAL
729 E 11TH ST
SOUTH SIOUX CITY NE 68776

Appeal Number: 05A-UI-05753-CT
OC: 02/13/05 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:

Gayleen Rusk filed an appeal from a representative's decision dated May 20, 2005, reference 02, which denied benefits on a finding that she refused a referral to suitable work with Fresh Start Janitorial. After due notice was issued, a hearing was held by telephone on June 28, 2005. Ms. Rusk participated personally. The employer participated by Karen Droke, Owner.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Rusk has never been employed by Fresh Start

Janitorial. On March 3, 2005, she was referred to the company by Workforce Development concerning available vacancies. Ms. Rusk accepted the referral and completed an application for employment. On May 3, Fresh Start Janitorial contacted Ms. Rusk to arrange an interview. She indicated at that time that she was no longer interested in employment with them. The janitorial work available was for from 20 to 30 hours each week to start and paid \$8.00 per hour. Work was available in Sioux City and South Sioux City, Nebraska.

Ms. Rusk filed her claim for job insurance benefits effective February 13, 2005. The average weekly wage paid to her during that quarter of her base period in which her wages were highest was \$402.00.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether any disqualification should be imposed for Ms. Rusk's May 3, 2005 refusal of the referral to work. An individual who refuses a referral from Workforce Development for suitable work is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. The administrative law judge concludes that the referral from May 3 was not for suitable work within the meaning of the law. The work was offered during the twelfth week following the filing of the claim effective February 13, 2005. Therefore, the job had to pay at least 75 percent of the average weekly wage paid to Ms. Rusk during that quarter of her base period in which her wages were highest. In other words, the job had to pay at least \$301.50 per week in order to be considered suitable work. The referral of May 3 was for, at most, 30 hours each week. At \$8.00 per hour, the job paid only \$240.00 per week.

Inasmuch as the referral of May 3 was for work that paid substantially less than \$301.50 each week, it was not suitable work and no disqualification may be imposed for the refusal.

DECISION:

The representative's decision dated May 20, 2005, reference 02, is hereby reversed. No disqualification is imposed for Ms. Rusk's refusal of the May 3, 2005 referral as it was not a referral to suitable work. Benefits are allowed, provided she satisfies all other conditions of eligibility. Because Fresh Start Janitorial never employed Ms. Rusk, their account is not subject to charges for benefits paid to her.

cfc/pjs