

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

JOHN C RASMUSSEN
8215 WILSON DR APT 2
RALSTON NE 68127

SIOUXLAND EXCAVATING INC
SIOUXLAND SAND & GRAVEL
PO BOX 610
BLAIR NE 68008

Appeal Number: 04A-UI-04157-DWT
OC 01/18/04 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 are 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 Suitable Work

STATEMENT OF THE CASE:

Siouxland Excavating, Inc., doing business as Siouxland Sand & Gravel (employer), appealed a representative's April 9, 2004 decision (reference 01) that concluded John C. Rasmussen (claimant) was qualified to receive unemployment insurance benefits because the employer did not make a bona fide offer of work to the claimant. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 6, 2004. The claimant participated in the hearing. Mark Carey, the vice president, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer offer the claimant a job or recall him to work on March 15, 2004?

FINDINGS OF FACT:

The claimant worked for the employer for about 18 months. The last day the claimant worked for the employer was February 9, 2004, when he did some snow removal work.

On March 15, 2004, the employer called the claimant three times to ask him to return to work on March 22, 2004. The employer did not talk to the claimant, but left him messages about returning to work. The claimant did not respond to the employer's messages because he had started working for another employer on March 11, 2004.

REASONING AND CONCLUSIONS OF LAW:

A claimant may be disqualified from receiving unemployment insurance benefits, if he refuses an offer of suitable work without good cause. Iowa Code §96.5-3-a. In deciding whether a claimant failed to accept suitable work, it must be established that a bona fide offer of work was made to the individual by personal contact or for purposes of a recall to work, the employer must send a registered letter to a claimant. 871 IAC 24.24(1).

The facts indicate the employer did not make a bona fide offer of work to the claimant because the employer did not personally contact the claimant or send him a registered letter. Even if the employer had personally contacted the claimant or sent him a registered letter, the claimant was not available to return to work for the employer because he had accepted and started a new job on March 11, 2004. The claimant remains qualified to receive unemployment insurance benefits as of March 15, 2004, if he meets all other eligibility requirements. (The record indicates the claimant did not file any weekly claims after March 6, 2004.)

DECISION:

The representative's April 9, 2004 decision (reference 01) is affirmed. The employer did not make a bona fide offer of work. Therefore, as of March 15, 2004, the claimant is not disqualified from receiving unemployment insurance benefits.

dlw/kjf