

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

SANTIAGO UGALDE PEREZ
4744 F AVE NE
CEDAR RAPIDS IA 52402

ZIO JOHNOS INC
ZIO JOHNOS SPAGHETTI HOUSE
1125 – 1ST AVE SE
CEDAR RAPIDS IA 52402

Appeal Number: 06A-UI-00540-S2T
OC: 11/27/05 R: 03
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 – Failure to Accept Suitable Work

STATEMENT OF THE CASE:

Santiago Perez (claimant) appealed a representative's January 9, 2006 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he refused suitable employment with Zio Johnos (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 1, 2006. The claimant participated personally through Ike Rocha, Interpreter. The employer did not provide a telephone number where it could be reached and, therefore, did not participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in 1996 and at the end of his employment was a full-time worker. The claimant began his work at one location and moved to another. He did not like working at the first location because of a personality conflict he had with a co-worker. On November 31, 2005, the employer told the claimant that he could work at his former location or take unemployment insurance benefits. The claimant could not return to the old location with the problem and, therefore, applied for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant failed to accept an offer of suitable work. For the following reasons the administrative law judge concludes he did not.

871 IAC 24.24(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

When a claimant is offered work by a former employer which the claimant had previously quit due to unsuitable conditions and the conditions are still in effect, the work is considered to be unsuitable. The claimant quit the previous location due to the conditions. Those conditions remained. The work offered at that previous location was, therefore, not suitable. The claimant is qualified to receive unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated January 9, 2006 (reference 01) is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

bas/pjs