

**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**

**BRIAN S FALK
301 LOCUST
ATLANTIC IA 50022**

**ATLANTIC STEEL ERECTORS LTD
1711 E 7TH ST
PO BOX 392
ATLANTIC IA 50022**

**Appeal Number: 05A-UI-05017-CT
OC: 03/13/05 R: 01
Claimant: Respondent (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:

Atlantic Steel Erectors, Ltd. filed an appeal from a representative's decision dated May 5, 2005, reference 01, which held that no work had been offered to Brian Falk on April 19, 2005. After due notice was issued, a hearing was held by telephone on May 31, 2005. The employer participated by Bobbi Barnholdt, Bookkeeper. Mr. Falk did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Falk began working for Atlantic Steel Erectors, Ltd. on

October 22, 2004 as a full-time laborer. He was laid off due to lack of work on or about March 15, 2005 but was not given a specific date on which he was to return to work.

On or about April 19, 2005, the employer began attempting to contact Mr. Falk to return to work. He did not respond to messages left by the employer. He subsequently contacted the employer and stated that he knew he had been expected to return to work for them but had relocated to Alabama. Continued full-time work would have been available if Mr. Falk had returned to work following the layoff. He has not claimed job insurance benefits since the week ending April 16, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Falk was offered work by Atlantic Steel Erectors, Ltd. on or about April 19, 2005. He was notified by telephone that work was resuming. He later acknowledged receiving the calls. The administrative law judge concludes that he refused recall to suitable work within the intent and meaning of Iowa Code section 96.5(3)a. The administrative law judge appreciates that there was no personal contact with Mr. Falk advising him that his layoff was over. However, one cannot escape the disqualification provisions of the law by simply not responding to calls placed by his employer about returning to work.

For the reasons stated herein, the administrative law judge concludes that Mr. Falk is disqualified from receiving job insurance benefits effective with the Sunday of the week in which he was recalled to work, April 17, 2005. Inasmuch as he did not claim benefits after this point in time, there has been no overpayment of benefits.

DECISION:

The representative's decision dated May 5, 2005, reference 01, is hereby reversed. Mr. Falk is disqualified from receiving benefits effective April 17, 2005 because he refused recall to suitable work with Atlantic Steel Erectors, Ltd. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/pjs