

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

JON R GOLDSMITH  
1600 N 8<sup>TH</sup> ST  
RED OAK IA 51566

PROFESSIONAL RESOURCES  
512 N 4<sup>TH</sup> ST  
RED OAK IA 51566

Appeal Number: 04A-UI-06389-S2T  
OC: 03/07/04 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-3-a – Refusal to Accept Suitable Work

STATEMENT OF THE CASE:

Professional Resources (employer) appealed a representative's May 28, 2004 decision (reference 03) that concluded Jon Goldsmith (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 6, 2004. The claimant did not provide a telephone number where he could be reached and, therefore, did not participate. The employer participated by Mary Lou Friedman, Staffing Manager.

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 on April 9, 2004, as a part-time temporary general laborer working for Trayco. The claimant worked days for \$8.00 per hour. The claimant stopped working for Trayco on April 20, 2004, because he was not physically able to keep up with the work.

On April 23, 2004, the employer offered the claimant a job working daytime for \$9.50 per hour. The claimant refused the offer of work because self-employed doing landscaping.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for work. For the following reasons the administrative law judge concludes he was not. Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4). The claimant was not able and available for work.

871 IAC 24.23(7) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(7) Where an individual devotes time and effort to becoming self-employed.

When an employee is devoting time and effort to being self-employed, he is considered to be unavailable for work. The claimant was devoting his time and efforts to his landscaping work. He is considered to be unavailable for work after April 23, 2004. The claimant is disqualified from receiving unemployment insurance benefits due to his unavailability for work.

DECISION:

The representative's May 28, 2004 decision (reference 03) is reversed. The claimant is disqualified from receiving unemployment insurance benefits due to his unavailability for work.

bas/kjf