

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

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MANPOWER INC OF CEDAR RAPIDS-52
1220 INDUSTRIAL AVE
HIAWATHA IA 52233

Appeal Number: 04A-UI-10803-SWT
OC: 07/04/04 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
Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 27, 2004, reference 01, that concluded he failed to accept an offer of suitable work without good cause. A telephone hearing was held on October 28, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Debbie Chamberlain participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer from September 2003 to September 3, 2004. He was assigned to work at Alcoa Engineered Products and was paid

\$9.00 per hour for 40 hours of work per week. He worked on the first shift. He completed the assignment.

On September 3, 2004, the branch manager asked the claimant about interviewing for a full-time job with Williamsburg Manufacturing. The job paid \$12.00 per hour for 40 hours per week of work and was a second-shift job. The job was an indefinite assignment. The claimant told the branch manager that he did not have transportation for the second-shift job. The claimant does not have a driver's license and the job was 20 miles from his residence. He had lined up transportation for the job at Alcoa, but he did not want to interview for the job without arranging for transportation. The employer never made an actual job offer to the claimant, only a job interview. A couple weeks later after the claimant had lined up transportation to work, the claimant interviewed for the job, but was not hired.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause as provided in Iowa Code Section 96.5-3-a. The unemployment insurance rules provide, however, that before a person is disqualified, the claimant must have been given a bona fide job offer, which means a definite offer of work. 871 IAC 24.24(1). In this case, the evidence fails to establish the claimant was given a definite offer of work. An offer to interview for a job is not the same thing as offer of work.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by Iowa Code Section 96.4-3. The unemployment insurance rules provide that a claimant does not have to be available for any particular shift, and as long as a claimant is available for work during the hours in which he earned his wages credits and there is a reasonable chance of securing employment during those hours, the claimant is considered available for work. 871 IAC 24.22(2)a. The evidence establishes that the claimant remained available for work despite not wanting to work second-shift hours.

DECISION:

The unemployment insurance decision dated September 27, 2004, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

saw/kjf