

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

NABINTU F ELODIE
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CEDAR RAPIDS IA 52408-8153

SPHERION ATLANTIC WORKFORCE
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-03397-CT
OC: 01/29/06 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 – Refusal of Work
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Nabintu Elodie filed an appeal from a representative's decision dated March 10, 2006, reference 03, which denied benefits on a finding that she had refused suitable work with Spherion Atlantic Workforce (Spherion). After due notice was issued, a hearing was held by telephone on April 13, 2006. Ms. Elodie participated personally. The employer participated by Mike German.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Ms. Elodie on March 10, 2006. The decision indicated that any appeal had to be filed by March 20, 2006. Ms. Elodie's appeal form is dated March 20, 2006. However, there was no envelope with the appeal and no fax machine imprint on the form. Ms. Elodie left the appeal with her local Workforce Development office in Cedar Rapids on March 20, 2006.

Ms. Elodie has been working through Spherion, a temporary placement firm, since February 18, 2005. On February 20, 2006, she was offered an assignment with CCB Packaging. The assignment was for 40 hours each week and was intended to last approximately six weeks. The rate of pay was \$7.25 per hour. Ms. Elodie declined the assignment due to her prior experience with CCB Packaging. She had been sent to that location on prior occasions but not allowed to work on some of those occasions because her name was not on the list of employees expected to be there.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Ms. Elodie filed a timely appeal as required by Iowa Code section 96.6(2). It is unclear as to how the appeal was transmitted to the Appeals Section as there was no envelope or fax machine imprint. Ms. Elodie was credible in her testimony that she left the appeal with her local office on March 20, 2006. Without evidence to the contrary, the administrative law judge resolves any doubt in Ms. Elodie's favor. It is concluded, therefore, that the appeal was timely filed.

The next issue is whether any disqualification should be imposed as a result of Ms. Elodie refusing work on February 20, 2006. She testified without contradiction that she was not always allowed to work when she reported to assignments at CCB Packaging. It was not unreasonable for her to decline to travel to a location where there was the possibility she would be sent home again. The administrative law judge is not inclined to impose a disqualification for refusing work when there is some doubt as to whether the work would have actually materialized. The employer acknowledged that they sometimes send back-up staff to locations. The administrative law judge is not satisfied that there was a bona fide offer that would have resulted in actual employment for Ms. Elodie. Therefore, no disqualification is imposed for the refusal of February 20, 2006.

DECISION:

The representative's decision dated March 10, 2006, reference 03, is hereby reversed. Ms. Elodie had good cause for refusing the work offered by Spherion on February 20, 2006. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/pjs