

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

LEROY E HILL JR
300 S 14TH
FAIRFIELD IA 52556

MAHARISHI UNIVERSITY OF
MANAGEMENT
c/o PERSONNEL OFFICE
FAIRFIELD IA 52557

Appeal Number: 05A-UI-01899-CT
OC: 01/02/05 R: 03
Claimant: Respondent (1)

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:

Maharishi University of Management filed an appeal from a representative's decision dated February 17, 2005, reference 01, which held that no work had been offered to Leroy Hill on October 15, 2004. After due notice was issued, a hearing was held by telephone on March 10, 2005. Mr. Hill participated personally and Exhibits A was admitted on his behalf. The employer participated by Robert Bollinger, Personnel Director, and Patty Brown, Custodial Services Department Head. Exhibits One, Two, and Three were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Hill began working for Maharishi University of Management on March 22, 2004. He was hired to work full time as a custodian. On October 5, he presented the employer with a copy of the patient insert that accompanied a medication he was taking for rheumatoid arthritis. The medication insert warned that taking Humira can lower the body's ability to fight infection. The insert also warned of rare cases of death due to infections from bacteria or fungus. Mr. Hill felt that his job as a custodian posed the risk of increased infections from bacteria or fungus. In response to his concerns, the employer took him off work and requested a letter from his doctor outlining what tasks he could safely perform.

On October 5, 2004, the employer was presented with a letter from Shruti Sheth, a Rheumatology Fellow at the Veterans Administration Medical Center in Iowa City, Iowa. The letter advised the employer to modify Mr. Hill's work so as to limit his exposure to bacteria and fungus. The letter also advised that he could vacuum carpets that were not heavily soiled but should not power-wash showers and toilets. The employer was unwilling to make any changes in Mr. Hill's job because it did not believe the author of the October 5 letter was a medical doctor. Mr. Hill was led to believe that the employer's insurance department was going to pursue obtaining additional medical information concerning his limitations. He continued to be in contact with the employer concerning a return to work.

On or about October 15, the employer offered Mr. Hill work in the grounds department for the same pay and same number of hours of work. He declined the work because of problems with his arthritis. Mr. Hill filed a claim for job insurance benefits effective January 2, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether any disqualification may be imposed for Mr. Hill's refusal of work offered on October 15, 2004. Iowa Workforce Development does not have jurisdiction over work refusals which occur prior to the filing of a claim for job insurance benefits. See 871 IAC 24.24(8). Because Mr. Hill's claim was filed effective January 2, 2005, he cannot be disqualified for work refused in October of 2004.

DECISION:

The representative's decision dated February 17, 2005, reference 01, is hereby affirmed as to result. No disqualification is imposed for Mr. Hill's October 15, 2005 refusal of work as he did not have a valid claim for job insurance benefits in effect at the time of the refusal.

cfc/kjf