

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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REMEDY INTELLIGENT STAFFING INC
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Appeal Number: 05A-UI-05528-DT
OC: 04/10/05 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 – Work Refusal

STATEMENT OF THE CASE:

Remedy Intelligent Staffing, Inc. (employer) appealed a representative's May 10, 2005 decision (reference 03) that concluded Michael C. McDonald (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 13, 2005. The claimant participated in the hearing. Sadie Henry appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant refuse a offer of suitable work without good cause?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant had only one assignment through the employer that began on June 3, 2004. His last day on the assignment was December 21, 2004. The assignment ended because the contract expired and the claimant went to work full time directly with the business client. However, in approximately January 2005, he had an approximate three or four month long layoff from that employer. On January 6, 2005 the employer contacted the claimant and asked if he would accept a one-day assignment for January 11, 2005, and the claimant agreed. He was to report for the assignment at 8:00 a.m. However, he overslept, and called the employer at approximately 8:15 a.m. to say he would be late; the employer told him not to bother, that it was sending someone else to the assignment.

On April 5, 2005 the employer contacted the claimant and indicated that it "might possibly" have a position for him with one or the other of two business clients. The claimant responded that he was not sure, that he did not know how taking an assignment might affect his eligibility for full or partial unemployment insurance benefits. The call ended with the employer's representative indicating that she would get back with the claimant regarding any potential positions, and with the claimant planning on contacting the Agency to inquire as to the repercussions of taking any assignment. The employer's representative never recontacted the claimant to make any specific offer of a position.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant refused a suitable offer of work.

Iowa Code section 96.5-3-a provides:

An individual shall be disqualified for benefits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly

wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

- (1) One hundred percent, if the work is offered during the first five weeks of unemployment.
- (2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.
- (3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.
- (4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

871 IAC 24.24(1)a provides:

- (1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

On January 11, 2005, the claimant did not refuse to work the one-day assignment, although he would have been late. On April 5, 2005, there was no bona fide offer of work and no definite refusal of work. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's May 10, 2005 decision (reference 03) is affirmed. The claimant did not refuse a suitable offer of work. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

ld/pjs