

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

ALVARA E KIRCHEN
2063 N STAR DR
DUBUQUE IA 52002

L A LEASING INC
SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265

Appeal Number: 04A-UI-10721-S2T
OC: 03/28/04 R: 04
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, 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 to Accept Suitable Work

STATEMENT OF THE CASE:

L.A. Leasing (employer) appealed a representative's September 21, 2004 decision (reference 03) that concluded Alvara Kirchen (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 October 21, 2004. The claimant participated personally. The employer participated by Nikki Kiefer, Human Resources Solutions Manager; and Colleen McGuinty, Unemployment Benefits Administrator.

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 February 7, 2000, as a part-time temporary worker. The claimant worked approximately 24 hours per week assigned to Nordstrom's. The claimant usually worked in the hanging department. On September 2, 2004, the employer informed the claimant there was no work in hanging on September 3, 2004. The employer offered the claimant part-time work in the rack department. The claimant refused because she would rather work in the hanging department. The hours and wages in both departments were the same.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant refused an offer of suitable work. For the following reasons the administrative law judge concludes she did.

871 IAC 24.24(14)(a)(b) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

The claimant was offered work by a former employer. That work was within the claimant's usual occupation. The claimant did not previously quit work with this employer. When work is offered by a previous employer, the work is the usual for the claimant and the claimant did not previously quit working for the employer, the claimant's refusal of work is a disqualifying event. The claimant is not eligible to receive unemployment insurance benefits because she refused suitable work.

DECISION:

The representative's September 21, 2004 decision (reference 03) is reversed. The claimant is not eligible to receive unemployment insurance benefits because she refused suitable work.

bas/kjf