**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

**ANDREW CANNON**
**212 BERLIN AVE**
**TRAER  IA  50675**

**MANPOWER INC OF CEDAR RAPIDS**
**1220 INDUSTRIAL AVE**
**HIAWATHA  IA  52233-1155**

Appeal Number:      04A-UI-07854-ET
OC: 05-09-04      R: 03
Claimant:  Appellant  (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:

The claimant filed a timely appeal from the July 15, 2004, reference 04, decision that denied benefits.  After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 11, 2004.  The claimant participated in the hearing.  Debra Chamberlain, Risk Control Manager, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:  The employer made an offer of work to the claimant on July 1, 2004.  That offer included the following terms:  A full-time, first-shift warehouse worker for ABC Supply Company earning

$9.50 per hour.  The claimant's average weekly wage is $344.56.  The offer was made in the claimant's second week of unemployment.  The claimant refused the offer because he did not want to work for Manpower anymore. He was upset that he did not have an apron at his previous assignment with DC Industries and felt that assignment did not provide adequate safety equipment.  He did not tell Manpower about the problem until after he walked off that job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did refuse 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.

Although the claimant may have had legitimate safety issue concerns about his assignment at DC Industries, he did not tell the employer about the problem until after he walked off that job and there is no evidence the job at ABC Supply Company would have posed the same safety issues.  The offer of work made by Manpower July 1, 2004, was suitable because it exceeded the claimant's weekly benefit amount and was a first-shift warehouse position that the claimant was qualified for.  Consequently, the administrative law judge concludes the claimant refused a suitable offer of work.  Benefits are denied.

DECISION:

The July 15, 2004, reference 04, decision is affirmed.  The claimant did refuse a suitable offer of work.  Benefits are denied.

je/kjf