

**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**

**JOSHUA M SWINNEY  
2667 SAMUEL CLEMENS RD  
MUSCATINE IA 52761**

**TEAM STAFFING SOLUTIONS INC  
116 HARRISON ST  
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-09301-S2T  
OC: 07/18/04 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-3-a – Refusal of Suitable Work

STATEMENT OF THE CASE:

Team Staffing Solutions (employer) appealed a representative's August 18, 2004 decision (reference 03) that concluded Joshua Swinney (claimant) was eligible to receive unemployment insurance benefits because he refused an offer of work before he filed his claim for benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 22, 2004. The claimant did not provide a telephone number where he could be reached and, therefore, did not participate. The employer participated by Wendy Clang, Claims Specialist.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services from February 2 through July 15, 2004. He signed a document on January 14, 2004, indicating that he was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The claimant completed his last assignment on July 15, 2004, but did not seek reassignment from the employer. On July 19, 2004, the employer offered the claimant three jobs earning \$8.00 or more per hour and working either first or second shifts. The claimant refused reassignment because he was going to school.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for work. For the following reasons the administrative law judge concludes he was not. Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4). The claimant was not available for work.

871 IAC 24.23(5) provides:

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

When an employee devotes his work time to being a student, he is considered to be unavailable for work. The claimant refused work because of his status as a student. He is considered to be unavailable for work. The claimant is disqualified from receiving unemployment insurance benefits beginning July 19, 2004, due to his unavailability for work.

DECISION:

The representative's August 18, 2004 decision (reference 03) is reversed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work with the employer.

bas/tjc