

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

THOMAS MIDKIFF
204 NW 11TH ST
GRIMES IA 50111

AEC ENTERPRISES INC
PO BOX 148
ST CHARLES IA 50240

Appeal Number: 06A-UI-03671-C
OC: 01/29/06 R: 02
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:

AEC Enterprises, Inc. (AEC) filed an appeal from a representative's decision dated March 27, 2006, reference 02, which held that no disqualification would be imposed regarding Thomas Midkiff's March 8, 2006 refusal of work. After due notice was issued, a hearing was held on April 24, 2006 in Des Moines, Iowa. Mr. Midkiff participated personally. The employer did not appear for the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: On or about March 2, 2006, Mr. Midkiff accepted a

referral from Workforce Development to a job opening with AEC. He interviewed on March 6 and was offered employment the same day. He was offered a full-time position at \$54,000.00 per year. Mr. Midkiff was advised that there would be a mandatory 58-hour workweek until the end of April of 2006. His workweek would then be 50 hours.

Mr. Midkiff declined the position with AEC because of the extensive overtime requirement. He has a hearing impairment and had concerns that he would have difficulty using the telephone because he would be in an open room next to the shop area. He also had concerns that the lighting would cause eye strain. The concerns regarding the telephone and lighting were not discussed with AEC. Mr. Midkiff gave notice on March 8 that he was declining the position.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether any disqualification should be imposed for Mr. Midkiff's March 8, 2006 refusal of work with AEC. An individual who refuses suitable work without good cause is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. The primary reason Mr. Midkiff declined work with AEC was the amount of required overtime. He would have been required to work 18 hours beyond the normal 40-hour workweek for a period of approximately two months. He would then have ten hours of required overtime thereafter for some period of time.

The administrative law judge concludes that the overtime requirements of the job offered by AEC constituted good cause for the refusal. The overtime was not going to be sporadic but on a sustained basis. Because he had good cause for the refusal, no disqualification is imposed. Mr. Midkiff has never worked for AEC and, therefore, its account is not subject to charges for benefits paid to him.

DECISION:

The representative's decision dated March 27, 2006, reference 02, is hereby affirmed. Mr. Midkiff had good cause for refusing an offer of work from AEC on March 8, 2006. Benefits are allowed, provided he satisfies all other conditions of eligibility. The unemployment account of AEC will not be charged for benefits paid to Mr. Midkiff.

cfc/tjc