

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

KATHI S SCOTT
1110 E LACONA AVE
DES MOINES IA 50315

USA STAFFING INC – LABOR WORLD
OF IOWA
3921 NE 14TH ST
DES MOINES IA 50313

Appeal Number: 05A-UI-11301-CT
OC: 06/12/05 R: 02
Claimant: Respondent (3)

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
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

USA Staffing, Inc. filed an appeal from a representative's decision dated October 25, 2005, reference 07, which held that Kathi Scott had been laid off due to lack of work. After due notice was issued, a hearing was held by telephone on November 17, 2005. Ms. Scott participated personally and offered additional testimony from Dennis Wilkinson. The employer participated by Brandon Rost, Branch Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Scott began working through USA Staffing, Inc. in March of 2005. She completed an assignment with the State of Iowa on October 7, 2005.

On October 11, Ms. Scott was offered an assignment performing data entry for the State of Iowa. The assignment was for 40 hours each week and was to last from one to two weeks. The assignment paid \$8.46 per hour. On October 24, she was offered a long-term assignment as a utility office worker for \$7.00 per hour. The assignment was to last several months. The last job offer was on November 2. The work was as a greeter in a retail outlet for 40 hours each week. Positions were anticipated to be available through February of 2006. There were positions available at several locations in Des Moines and West Des Moines. There were hours available between 9:00 a.m. and 7:00 p.m. Ms. Scott told the employer she was declining because she felt the work would be boring. An additional reason for not accepting the assignment was that bus service was her only means of transportation and busses were not available past approximately 5:30 p.m. At the time she declined the offer, Ms. Scott did not know what location or what hours she might have been offered.

Ms. Scott filed an original claim for job insurance benefits effective June 12, 2005. She filed an additional claim effective October 9, 2005. The average weekly wage paid to her during that quarter of her base period in which her wages were highest was \$384.70. Ms. Scott has received \$217.00 in job insurance benefits for each of the three weeks ending November 5, November 12, and November 19, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Scott refused an offer of suitable work. An individual who refuses an offer of suitable work without good cause is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. One of the criteria for determining suitability of work is the amount of wages being offered. Work offered during the first five weeks after an individual files an additional claim for benefits must pay at least 100 percent of the average weekly wage earned during that quarter of the base period in wages were highest. In Ms. Scott's case, the work had to pay at least \$384.70 per week in order to be suitable. The work offered on October 11 and October 24 was not suitable work, because both jobs paid less than \$384.70 per week. One paid \$338.40 and the other paid \$280.00 per week. Because of the wages offered, the administrative law judge concludes that the work was not suitable work within the meaning of the law. Accordingly, no disqualification may be imposed for the refusal.

The work offered on November 2 was offered during the fourth week after Ms. Scott filed her additional claim. The job paid \$400.00 per week and, therefore, satisfied wage requirements of the law. The job of greeter did not involve any skills Ms. Scott did not already have or could not have learned rather quickly. She testified that she declined the position because of transportation issues. However, there were a range of hours and locations available. Ms. Scott declined the work without knowing where or when she would be expected to work. Therefore, she does not know whether transportation might have been an issue.

The administrative law judge concludes that good cause for declining the work offered on November 2, 2005 has not been established. Therefore, benefits are denied as of the Sunday of the week in which the refusal occurred, October 30, 2005. Ms. Scott has received a total of

\$651.00 in job insurance benefits since October 30. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated October 25, 2005, reference 07, is hereby modified. Ms. Scott was separated from employment for no disqualifying reason. She refused an offer of suitable work on November 2, 2005 for no good cause. Benefits are withheld effective October 30, 2005 and until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Scott has been overpaid \$651.00 in job insurance benefits.

cfc/kjw