

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 E WATERMAN  
10620 – 1<sup>ST</sup> ST W #19  
MILAN IL 61264

WILLIAMS REFRACTORY SERVICES INC  
28800 NE COLBERN RD  
LAKE LOTAWANA MO 64086

Appeal Number: 04A-UI-05492-CT  
OC: 03/28/04 R: 12  
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, 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 Work

STATEMENT OF THE CASE:

Williams Refractory Services, Inc. (Williams) filed an appeal from a representative's decision dated May 11, 2004, reference 01, which held that the employer would not be relieved of charges based on benefits paid by another state. After due notice was issued, a hearing was held by telephone on June 9, 2004. The employer participated by Amy Etzenhouser, Administrative Assistant. Mr. Waterman did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Waterman was employed by Williams from February 1,

2001 until March 13, 2003 as a laborer. He was considered a temporary employee but worked full-time hours. The employment ended when there was no further work for Mr. Waterman. He was given no indication on March 13, 2003 that he might be recalled at some future point.

Mr. Waterman had been hired through his union hall in February of 2001. The employer attempted to reach him by telephone on or about March 15, 2004 because work was available. His telephone was disconnected. The employer sent a letter to the union hall requesting seven workers and requesting Mr. Waterman by name. Mr. Waterman was not one of the individuals the union hall sent. The union hall did not advise the employer as to Mr. Waterman's status with the union hall. The work that was available at the time was from March 15 through March 24. Mr. Waterman could have worked from 42 to 72 hours each week at an hourly rate of \$20.21.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether the employer should be relieved of charges for benefits paid to Mr. Waterman. His wage credits have been transferred from Iowa to Illinois and Illinois will determine his eligibility for benefits. Williams may be relieved of benefit charges on its Iowa account if the facts support a disqualification from benefits that would result in a relief of charges under Iowa law. The issue is whether Mr. Waterman's failure to accept work on March 15, 2004 provides a basis for relieving the employer of benefit charges pursuant to Iowa Code Section 96.5(3)a.

Under Iowa law, it must first be established that an offer of work was made by personal contact or registered mail. 871 IAC 24.24(1)a. The employer attempted to contact Mr. Waterman by telephone but was not able to do so. The employer then sent a letter to the union hall through which he had been hired three years earlier. There was no evidence that the union hall was in contact with Mr. Waterman to advise him of the job opening at Williams. Because he had not been told in March of 2003 that he might be recalled by Williams, Mr. Waterman had no continuing obligation to notify them of his whereabouts. Inasmuch as there was no evidence that Mr. Waterman was ever aware of the available work, no disqualification is imposed. Because there is no disqualification from benefits, the employer will not be relieved of charges.

#### DECISION:

The representative's decision dated May 11, 2004, reference 01, is hereby affirmed. Williams is not relieved of charges for benefits paid to Mr. Waterman by the State of Illinois.

cfc/b