

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

DARRELL R DELANEY
BLDG A APT#2
1516 EVERGREEN AVE
DES MOINES IA 50320 1318

CROWN SERVICES INC
c/o SIMON COMPENSATION SVCS CO
PO BOX 629
LEWIS CENTER OH 43035

Appeal Number: 04A-UI-12086-DWT
OC: 10/10/04 R: 02
Claimant: Respondent (4/R)

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 are 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 Offer of Suitable Work

STATEMENT OF THE CASE:

Crown Services, Inc. (employer) appealed a representative's November 5, 2004 decision (reference 07) that concluded Darrell R. Delaney (claimant) was qualified to receive unemployment insurance benefits because the claimant declined an offer of work before he had established a claim for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 1, 2004. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Brett McAllister, the employer's general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant be disqualified from receiving unemployment insurance benefits after he refused an offer of suitable work?

FINDINGS OF FACT:

The claimant registered to work for the employer's clients on March 24, 2004. The claimant indicated on his employment application he was looking for any work that paid \$8.00 an hour. The employer assigned the claimant to a job that ended on July 22, 2004. This job paid less than \$8.00 an hour.

On September 14, 2004, the claimant contacted the employer to ask about another job assignment. The employer had a three to four day job available at Freeman Decorating and offered the claimant this job. The claimant declined this assignment because he only wanted a long-term job. On September 27, the claimant again contacted the employer to find out if the employer had any assignment for him. The employer again had a job at Freeman Decorating for a week and offered the claimant this job. The claimant again declined because he wanted a long-term job.

The claimant established a claim for unemployment insurance benefits during the week of October 10, 2004. On October 28, 2004, the claimant called the employer and asked if the employer had any assignment for him. The employer again offered the claimant a job at Freeman Decorating. This job was a two-day job assignment. The claimant again declined the job because he wanted a long-term job. The jobs at Freeman Decorating paid \$6.81 per hour.

On November 22, the claimant started a long-term assignment the employer gave him. This job ended for the claimant on November 22, 2004.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code §96.4-3. Also, if a claimant fails to accept an offer of suitable work without good cause, he is disqualified from receiving unemployment insurance benefits. Iowa Code §96.5-3-a. However, both the offer of work and refusal must occur within a claimant's benefit year. 871 IAC 24.24(8). Therefore, the work assignments the claimant declined on September 14 and 27, 2004, do not disqualify him from receiving unemployment insurance benefits.

The assignment the claimant declined on October 28, 2004, was offered and declined after the claimant established a claim for unemployment insurance benefits. The only reason the claimant declined the assignment was because it was for two days instead of a long-term assignment. The claimant may have personal reasons for declining a two-day assignment, but there is no evidence the claimant was not able and available to work for two days this week. The wage offered was more than the claimant's average hourly wage. The evidence does not establish that the claimant declined this job offer with good cause. Therefore, as of October 24, 2004, the claimant is not qualified to receive unemployment insurance benefits. As a result of this refusal, the employer's account will not be charged. Iowa Code §96.5-3-a.

During the hearing, the employer presented information about a long-term job assignment the claimant accepted. The claimant started and ended this assignment November 22, 2004. This employment separation is remanded to the Claims Section to investigate and issue a written decision to both parties.

DECISION:

The representative's November 5, 2004 decision (reference 07) is modified in the employer's favor. The claimant is not disqualified from receiving benefits for declining a job on September 14, but he is disqualified from receiving benefits as of October 23, 2004 for declining a suitable job on October 28, 2004. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. An employment separation issue that occurred on November 22, 2004 is remanded to the Claims Section to investigate and issue a written decision to both parties.

dlw/pjs