

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

PENNY J SKILES
218 SOUTH ST APT 2
WATERLOO IA 50701

MANPOWER INC OF CEDAR RAPIDS
1220 INDUSTRIAL AVE
HIAWATHA IA 52233-1155

Appeal Number: 04A-UI-03919-AT
OC: 12-21-03 R: 03
Claimant: Appellant (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, 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 Suitable Work

STATEMENT OF THE CASE:

Penny J. Skiles filed a timely appeal from an unemployment insurance decision dated April 5, 2004 reference 02 which disqualified her for benefits upon a finding that she had refused to accept suitable work with Manpower, Inc. on March 12, 2004. After due notice was issued, a telephone hearing was held April 20, 2004 with Ms. Skiles participating. Risk Control Manager Debbie Chamberlain participated for the employer.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: On or about March 12, 2004 Kathy Joblinske of

Manpower, Inc. offered an assignment to Penny Skiles. The job was as a laborer in a manufacturing plant. The pay was \$7.00 per hour for 40 hours of work per week. Ms. Skiles declined the assignment because she requested assignments in clerical positions. She had no experience in manufacturing. Furthermore, Ms. Skiles had been hired by Access Direct and was awaiting word from that employer as to when she would start training. The trainer for Access Direct had recently resigned, and the company had not yet established its new training schedule. Ms. Skiles subsequently began work with Access Direct on April 5, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Skiles should be disqualified for benefits for refusing the assignment from Manpower on March 12, 2004. For the reasons which follow, the administrative law judge concludes that she should not be disqualified.

Iowa Code Section 96.5-2-b provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

b. If gross misconduct is established, the department shall cancel the individual's wage credits earned, prior to the date of discharge, from all employers.

The evidence establishes that Ms. Skiles had been hired by another employer. Although she had not yet begun performing services for that employer, she could not be certain as to when she would be called to work. Furthermore, the offer was for a type of position for which Ms. Skiles had no work experience. Under these circumstances, the administrative law judge concludes that no disqualification should be imposed.

DECISION:

The unemployment insurance decision dated April 5, 2004 reference 02 is reversed. The offer of work was unsuitable. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

sb/b