

**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**

**BEVERLY J HOLTMYER
1525 W JEFFERSON ST
WINTERSET IA 50273**

**EDGETOWNER MOTEL
ATTN WILLIAM MAUERMANN
PO BOX 8
DESOTO IA 50069-0008**

**Appeal Number: 04A-UI-09687-CT
OC: 08/08/04 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:

Edgetowner Motel filed an appeal from a representative's decision dated September 2, 2004, reference 02, which held that no disqualification would be imposed regarding Beverly Holtmyer's refusal of work. After due notice was issued, a hearing was held by telephone on September 29, 2004. Ms. Holtmyer participated personally. The employer participated by William Mauermann and Susan Mauermann, Owners.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Holtmyer began working for Edgetowner Motel in January of 2004 as a part-time housekeeper. She was told that the availability of work would depend on the number of guests at the motel. On or about February 20, Ms. Holtmyer was advised that she was being laid off until business picked up. A construction crew that had been staying at the motel had completed their work in the area and were moving on. The employer decided that what housekeeping work that was available would be offered to those who lived closer to the motel as Ms. Holtmyer would be less likely to travel the distance from her home to work if there were winter road conditions.

On April 1, 2004, Ms. Holtmyer accepted full-time work elsewhere. On April 9, Edgetowner Motel called her to offer work. She had to decline the work because of her other employment. She filed her claim for job insurance benefits effective August 8, 2004 after she became separated from her new employment on August 6, 2004. Ms. Holtmyer resumed full-time employment on August 28, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Holtmyer was separated from employment for any disqualifying reason. She was separated from Edgetowner Motel on February 20, 2004 when the employer had no work available for her. She was told that she would be recalled when business picked up. She was not recalled until almost two months later. Although she was told at the time of hire that work could be "spotty," she had no reason to believe that she would have two months between work assignments. The administrative law judge concludes that the February 20 separation should be considered a layoff due to lack of work.

The next issue is whether any disqualification should be imposed for Ms. Holtmyer's April 9, 2004 refusal of 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. Having gainful employment elsewhere is considered good cause for refusing an offer of suitable work. See 871 IAC 24.24(7). Inasmuch as Ms. Holtmyer was working full time elsewhere as of April 9, 2004, she had good cause for refusing the employer's offer of part-time work. Accordingly, no disqualification is imposed.

DECISION:

The representative's decision dated September 2, 2004, reference 02, is hereby affirmed. Ms. Holtmyer had good cause for refusing work with Edgetowner Motel on April 9, 2004. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/kjf