

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

DANNY E FUCALORO
5703 SW 3RD ST
DES MOINES IA 50315

DES STAFFING SERVICES INC
3326 INDIANOLA AVE
DES MOINES IA 50315

Appeal Number: 04A-UI-10287-CT
OC: 08/22/04 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:

DES Staffing Services, Inc. (DES) filed an appeal from a representative's decision dated September 21, 2004, reference 01, which held that no disqualification would be imposed regarding Danny Fucaloro's separation from employment. After due notice was issued, a hearing was held by telephone on October 14, 2004. The employer participated by Brad Russell, Director of Operations. Mr. Fucaloro 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. Fucaloro began working through DES on March 1, 2004.

On July 14, he interviewed for and accepted a position with Mrs. Clark's Foods. The temporary assignment could have led to regular, full-time employment with Mrs. Clark's Foods. The assignment was for 40 hours each week and paid \$9.00 per hour. Mr. Fucaloro had the skills necessary to work as a blender, the job for which he was hired. He was to start on July 19 but did not report as scheduled. He did not notify either Mrs. Clark's Foods or DES of his intentions. DES has not heard anything further from Mr. Fucaloro. He filed a claim for job insurance benefits effective August 22, 2004.

REASONING AND CONCLUSIONS OF LAW:

Mr. Fucaloro was offered and accepted work which was to begin on July 19, 2004. He did not report for the job. The administrative law judge concludes that the issue is one of work refusal rather than separation. An individual who refuses an offer of suitable work is disqualified from receiving job insurance benefits. See Iowa Code section 96.5(3)a. However, the individual must have a valid claim for job insurance benefits in effect at the time of the refusal. See 871 IAC 24.24(8). Because Mr. Fucaloro's claim was not filed until August, he cannot be disqualified from benefits based on work refused in July. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated September 21, 2004, reference 01, is hereby affirmed as to result. Mr. Fucaloro refused an offer of suitable work on July 19, 2004 but did not have a claim for job insurance benefits in effect at the time of the refusal. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/b