

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

LARRY A BROWN
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WEST MINSTER CO 80031

BROWN TANK LLC
6995 – 55TH ST N STE A
ST PAUL MN 55128

Appeal Number: 04A-UI-01270-H2T
OC 12-07-03 R 01
Claimant: Appellant (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 – Work Refusal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 28, 2004, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on March 1, 2004. The claimant did participate. The employer did participate through Bob Sumpter, Project Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant started working for this employer on August 20, 2003 through December 5, 2003 in Ashton, Iowa on a welding project. The claimant knew when he was hired that the work required he travel all across the United States. In fact, at the time of the hearing the claimant was working in Texas. When the job in Ashton, Iowa was completed the claimant was offered

another welding job in Gladstone, Michigan under the same terms and conditions. The claimant turned the job down because he did not believe he could haul his motor home into Michigan because his insurance would not cover him in the state of Michigan. The offer was made to the claimant soon after the job in Ashton was completed. At hearing the claimant made it clear that he expected to have to move all over the country, as was the nature of the line of work he is engaged in.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did refuse a suitable offer of work.

Iowa Code Section 96.5-3-a provides:

An individual shall be disqualified for benefits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

The offer made to the claimant was the same terms and conditions as the work he had performed in Iowa. The claimant knew that the nature of the work was all over the country. The claimant did not turn down the work because it was outside of Iowa, but because he did not believe his insurance would cover his motor home in the state of Michigan. Such is not a sufficient reason to turn down an offer of work. Benefits are denied.

DECISION:

The January 28, 2004, reference 02, decision is affirmed. The claimant did refuse a suitable offer of work. Benefits are denied.

tkh/b