

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 M ANDERSON
271 JOHNSON AVE NW
CEDAR RAPIDS IA 52405-4861

ADVANCE SERVICES INC
c/o TALX UCM SERVICES INC
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 06O-UI-06395-JTT
OC: 03/12/06 R: 03
Claimant: Respondent (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 96.4(3) – Able and Available
Section 96.5(3)(a) – Refusal of Suitable Work
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

Advance Services filed a timely appeal from the April 14, 2006, reference 05, decision that deemed claimant Penny Anderson eligible for benefits and that concluded Ms. Anderson had refused an offer of employment for good cause. After due notice was issued, a hearing was held on July 12, 2006. Claimant Penny Anderson participated. Office Manager Tamara Dostart represented the employer. The administrative law judge took official notice of the Agency's administrative file for the current benefit year and the prior benefit year. Employer's Exhibit One was received into evidence.

ISSUES:

1. Whether the claimant has been able and available for work since establishing her claim for benefits.
2. Whether the claimant is disqualified for benefits based on a refusal of a suitable offer of employment.
3. Whether the claimant has been overpaid benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Penny Anderson commenced her employment relationship with Advance Services on March 16, 2005. Ms. Anderson most recently completed an assignment with Advance Services on September 19, 2005. Ms. Anderson's assignments through Advance Services had all been for first-shift, full-time, Monday through Friday, and all but one had been located in Cedar Rapids. One assignment had been in North Liberty. Ms. Anderson's assignments through Advance Services had paid from \$7.00 to \$8.70 per hour.

Ms. Anderson's driving privileges have been revoked for seven years and Ms. Anderson relies upon her father for transportation to work. Ms. Anderson is able to utilize the Cedar Rapids public transit system as alternative transportation to work.

Instead of contacting Advance Services during normal business hours, Ms. Anderson was in the habit of communicating with Advance Services by telephoning the agency outside of normal business hours and leaving messages on the agency's answering machine. Ms. Anderson used this method of communication because she was usually working at other employment during normal business hours. Advance Services found Ms. Anderson's after-hours message a hindrance to placing Ms. Anderson in assignments.

On November 9, Advance Services offered Ms. Anderson an assignment at Worley Warehouse. Ms. Anderson had previously worked at the Worley Warehouse through Advance Services. The hours of the new assignment would generally be 7:00 a.m. to 3:30 p.m., Monday through Friday, and would pay \$7.00 per hour. However, Worley Warehouse and Advance Services wanted Ms. Anderson to work until 5:30 p.m. on Saturday and Sunday, November 12-13. Ms. Anderson had a long-standing, part-time, weekend job performing services for an elderly person and told Advance Services that she could not work the weekend hours. Advance Services deemed this a refusal of the assignment and placed someone else in the assignment.

Advance Services next discussed a possible assignment with Ms. Anderson on March 23, 2006. Ms. Anderson was at work for another employer when Stephanie Kopish of Advance Services left a message about this assignment on her answering machine. Advance Services did not provide details regarding the assignment in the message it left for Ms. Anderson. Ms. Anderson telephoned Advance Services before their normal business hours on March 23 and left a message indicating that she had a doctor's appointment and would not be able to report to the assignment on March 23. Advance Services contacted Ms. Anderson later the same day to discuss Ms. Anderson's habit of telephoning Advance Services outside normal business hours. The assignment in question would have been in Cedar Rapids, would have started March 23, would have consisted of four 10-hour shifts, Monday through Thursday, and would have involved assembling air filters. Advance Services deemed Ms. Anderson's early

morning phone message a refusal of the assignment and placed another person in the assignment.

Advance Services next contacted Ms. Anderson regarding an assignment on May 1, 2006. Ms. Anderson was at work for another employer when Advance Services left a telephone message for Ms. Anderson about the assignment. The assignment was to start May 4, was for washing dishes at \$8.50 per hour and would have been in Cedar Rapids. The hours of the assignment would ordinarily be 8:00 a.m. to 5:00 p.m. On May 4, Ms. Anderson telephoned Advance Services before their normal business hours and left a message indicating that she was working elsewhere, but would be able to report to the assignment the next day. Advance Services deemed the message a refusal of the assignment and placed someone else in the assignment.

On June 7, 2006, Ms. Anderson commenced full-time permanent employment as a housekeeper at a Hampton Inn.

Ms. Anderson's current benefit year commenced on March 12, 2006. Ms. Anderson had previously established a claim that was effective March 13, 2005.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge has reviewed the reasoning and conclusions of law set forth in Administrative Law Judge Susan Brightman's May 16, 2006 decision in appeal number 06A-UI-04407-BT. This administrative law judge concurs with Judge Brightman's reasoning and conclusions of law and hereby adopts Judge Brightman's reasoning and conclusions of law.

DECISION:

The Agency representative's April 14, 2006, reference 05, decision is reversed. The claimant does not qualify for unemployment insurance benefits as of March 18, 2006 because she does not meet the availability requirements of the law. The claimant is overpaid benefits in the amount of \$483.00. However, this amount has been previously set up according to reference 06.

jt/pjs