

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

ROBERT R GUION JR
207 NW 2ND APT 6
GREENFIELD IA 50849

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

Appeal Number: 05A-UI-11602-SWT
OC: 10/02/05 R: 03
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 - Failure to Accept Suitable Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 31, 2005, reference 02, that concluded the claimant failed to accept an offer of suitable work without good cause. A telephone hearing was held on November 29, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Mindy Shackelford participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked as an assembler for the employer on a full-time assignment at Cardinal Glass in Greenfield, Iowa, from June 8, 2005, to September 30, 2005, when he was laid off. The claimant was paid \$10.75 per hour. When the claimant was laid off,

he was told that he was on a call-back list, but there was no definite date on which he was to be called back to work or guarantee that he would be called.

The claimant filed a new claim for unemployment insurance benefits with an effective date of October 2, 2005. His average weekly wage based on the highest quarter of earnings in his base period was \$213.71.

On October 11, 2005, the employer offered the claimant a job. He was offered a full-time job as a welder with Simon Welding at a rate of pay of \$11.00 per hour starting October 12, 2005. The job was located in Winterset about 25 miles away from the claimant's residence in Greenfield. The claimant had moved from Winterset to Greenfield to be closer to his work at Cardinal Glass. The claimant was qualified to perform the work.

The claimant declined the job because he understood that if he accepted the job, he would no longer be considered for recall to the job at Cardinal Glass, which was a job that he liked and was close to home. The claimant did not have any definite prospects of any other work at the time he declined the job at Simon Welding.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is subject to disqualification for failing to accept an offer of suitable work without good cause.

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....

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.

In this case, the work was offered about ten days after the claimant was laid off. The wages for the job were suitable under the statute. The claimant's reason for turning down the job does not provide good cause because there was no definite date when the claimant would be recalled to work at Cardinal Glass or any guarantee that he would be recalled. The job was a reasonable commuting distance from the claimant's home, considering the fact that the claimant did not have any definite prospects for work closer to his home.

DECISION:

The unemployment insurance decision dated October 31, 2005, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/s