

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

DONALD MACKIE  
616½ – 9<sup>TH</sup> ST NW  
MASON CITY IA 50401-1906

RM ENTERPRISES INC  
606 S FEDERAL AVE  
MASON CITY IA 50401

Appeal Number: 06A-UI-06871-BT  
OC: 02/19/06 R: 02  
Claimant: Respondent (4)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-j - Voluntary Quit of Temporary Employment  
Section 96.5-3-a - Refusal of Suitable Work

STATEMENT OF THE CASE:

RM Enterprises (employer) appealed an unemployment insurance decision dated June 27, 2006, reference 02, which held that Donald Mackie (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 25, 2006. The claimant participated in the hearing. The employer participated through Rhonda Coborn, President. Both parties waived formal notice to the issue of whether the claimant refused to accept suitable work so that the issue could be addressed in the hearing.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time temporary laborer from August 2002 through June 12, 2006, when he was removed from an assignment due to attendance issues. The employer did not have additional work assignments available for him until an offer was made to the claimant on July 24, 2006. The employer offered the claimant work at Ag Pro in Mason City at a higher wage than he had received at his previous assignment. The claimant refused the offer because he claimed he had no transportation but admitted at hearing that the bus ran within several blocks of that assignment.

#### REASONING AND CONCLUSIONS OF LAW:

The first issue to be determined in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after ending a job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule. The employer must also notify the individual that he may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j.

In the case herein, the employer was notified the claimant was not wanted to return at his previous assignment because of attendance problems. The employer notified the claimant his assignment was over. The claimant did contact the employer after the completion of his assignment but no work was available. The claimant is considered to have voluntarily quit with good cause attributable to the employer and benefits are allowed as of week ending June 17, 2006.

The next issue to be determined is whether the claimant unreasonably rejected an offer of suitable work. An individual who refuses recall to suitable work is disqualified from receiving job insurance benefits.

Iowa Code § 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 claimant was offered work at a higher wage than his previous assignment but he refused the offer, claiming he had no transportation. In fact, the claimant did have transportation within several blocks of this assignment, so his refusal was not based on lack of transportation. Inasmuch as the claimant was offered employment that paid more than his last assignment, the administrative law judge considers the work offered by the employer to be suitable work within the meaning of the law. Since the claimant did refuse a suitable offer of work, he is disqualified and benefits are denied as of week ending July 29, 2006.

#### DECISION:

The unemployment insurance decision dated June 27, 2006, reference 02, is modified in favor of the appellant. The claimant is eligible for benefits beginning June 17, 2006 through July 22, 2006 and is thereafter denied due to refusal of a suitable offer of work. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

sda/kjw