

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

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Appeal Number: 04A-UI-03367-SWT
OC 02/22/04 R 03
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, 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 employer appealed an unemployment insurance decision dated March 17, 2004, reference 05, that concluded the claimant was not disqualified from receiving unemployment insurance benefits for refusing work on May 16, 2003. A telephone hearing was held on April 19, 2004. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Linda Watson participated in the hearing on behalf of the employer with a witness, Jeannene Clark. Exhibit One was admitted into evidence at the hearing.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked part-time for the employer as a certified nursing assistant from November 17, 2002, to May 13, 2003. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled.

After working on May 13, 2003, the claimant accepted a work assignment on May 16, 2003, from 3:00 to 11:00 p.m. The claimant failed to report to work at the assigned time and failed to notify the employer about his absence. The employer called the claimant at about 4:00 p.m. and asked him if he was going to report to work. He said he was not going to work that day but did not provide a legitimate reason for his failure to report to work or his failure to call the employer as the work rules required. As a result, the employer terminated the claimant's employment. No refusal to accept work occurred in this case because the claimant had accepted the job but failed to report to work.

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. The Agency considered the claimant to have failed to accept offered work, but no refusal to accept work occurred in this case because the claimant had accepted the job but failed to report to work. The claimant was discharged after he failed to report to work without notice to the employer and that issue was decided in Appeal 04A-UI-03367-SWT.

The claimant is not disqualified from receiving unemployment insurance benefits based on his separation from the employer because he earned more than ten times his weekly benefit amount before filing for unemployment insurance benefits in February 2004. He remains disqualified based on his separation from Colonial Manor.

DECISION:

The unemployment insurance decision dated March 17, 2004, reference 05, is modified in favor of the employer. The claimant did not fail to accept suitable work but was discharged for failing to report for scheduled work. That separation was decided in Appeal 04A-UI-03367-SWT. The claimant is not disqualified from receiving unemployment insurance benefits based on his separation from the employer because he earned more than ten times his weekly benefit amount before filing for unemployment insurance benefits in February 2004. He remains disqualified based on his separation from Colonial Manor.

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