

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

MARVIN D PERRY
819 S 19TH ST
CLARINDA IA 51632

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

Appeal Number: 06A-UI-07424-CT
OC: 05/14/06 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 – Refusal of Work

STATEMENT OF THE CASE:

Marvin Perry filed an appeal from a representative's decision dated July 20, 2006, reference 01, which denied benefits on a finding that he had refused suitable work with Advance Services, Inc. After due notice was issued, a hearing was held by telephone on August 21, 2006. Mr. Perry participated personally. The employer participated by Brandi McFarland, Office Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Perry began working through Advance Services,

Inc., a temporary placement service, in March of 2005. On June 28, 2006, he was contacted by telephone and offered work with Fresco. The assignment was to start on June 28 and last for two to three weeks. It was for 40 hours each week and paid \$10.00 per hour. The assignment was for the shift that began at 3:00 p.m. Mr. Perry indicated he was declining the assignment because he had classes for his GED that week.

Mr. Perry has been working on his GED for at least a year. It is his decision as to when he takes the classes and the tests. He was called at approximately 8:30 a.m. on June 28 and offered the job at Fresco. He was scheduled to have a GED test that morning and, in the past, the tests have usually taken approximately three hours to complete.

Mr. Perry filed a claim for job insurance benefits effective May 14, 2006. The average weekly wage earned during that quarter of his base period in which the wages were highest was \$385.96.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Perry refused an offer of suitable work and, if so, whether he had good cause for the refusal. An individual who refuses an offer of suitable work is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. There has been no allegation by Mr. Perry that he was physically unable to perform the work or that he lacked the skills necessary to perform the work. He has not identified any area in which the work offered on June 28 was unsuitable for him.

The work offered to Mr. Perry on June 28 was offered during this seventh week of unemployment. Therefore, it had to pay at least 75 percent of the average weekly wage paid during that quarter of his base period in which his wages were highest. In other words, the job had to pay at least \$289.47 in order to be considered suitable work within the meaning of the law. Since the job paid \$400.00 per week, the administrative law judge concludes that it was suitable work.

Mr. Perry declined the work on June 28 because of his GED classes and testing. The work on his GED is self-paced and he can work on it at times he chooses. He usually does work on his GED during morning hours. As such, he would have been free to work at Fresco during the shift that started at 3:00 p.m. The administrative law judge appreciates that Mr. Perry was already scheduled for a GED test on the morning of June 28. However, he would have been done with the test by approximately noon, leaving at least three hours before he would have to report at Fresco. For the above reasons, the administrative law judge concludes that Mr. Perry did not have good cause for refusing the work. Accordingly, benefits are denied.

DECISION:

The representative's decision dated July 20, 2006, reference 01, is hereby affirmed. Mr. Perry refused an offer of suitable work without good cause on June 28, 2006. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/pjs