

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

STEWART A MEDBOURN  
905 – 27<sup>TH</sup> ST  
SIOUX CITY IA 50104

ADECCO USA INC  
c/o TALK UC EXPRESS  
PO BOX 66736  
ST LOUIS MO 63166-6736

Appeal Number: 05A-UI-06922-CT  
OC: 05/15/05 R: 01  
Claimant: Respondent (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, 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(3)a – Refusal of Work

STATEMENT OF THE CASE:

Adecco USA, Inc. filed an appeal from a representative's decision dated June 16, 2005, reference 02, which held that no disqualification would be imposed regarding Stewart Medbourn's May 23, 2005 refusal of work. After due notice was issued, a hearing was held by telephone on July 21, 2005. Mr. Medbourn participated personally. The employer participated by Chris Byne, Office Supervisor, and was represented by Ralph McGlothlen of TALX UC eXpress.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Medbourn was employed by Adecco USA, Inc.

beginning November 18, 2004. He completed an assignment on February 18, 2005. On April 18, he was offered four days of work at the Coca-Cola plant. The work was for eight hours each day and paid \$9.50 per hour. Mr. Medbourn declined the offer.

On May 23, Mr. Medbourn was offered work with ConAgra. The assignment was for four or five days, eight hours each day, and paid \$8.50 per hour. He declined the assignment because he had been told by his local Workforce Development office that he did not have to accept work that paid less than \$11.00 per hour, the amount he earned at his prior job. Mr. Medbourn filed a claim for job insurance benefits effective May 15, 2005. The average weekly wage paid to him during that quarter of his base period in which his wages were highest was \$216.93.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether any disqualification should be imposed for Mr. Medbourn's refusal of work. The offer of April 18 was prior to his claim for job insurance benefits filed effective May 15, 2005. As such, Workforce Development has no jurisdiction over the refusal. See 871 IAC 24.24(8). The offer of May 23 was, however, after he filed for benefits.

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. 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 work offered on May 23 satisfied the wage requirement of Iowa Code section 96.5(3)a. However, Mr. Medbourn had been led to believe that he did not have to accept any job that paid less than \$11.00 per hour. This advice was in error. Because Mr. Medbourn relied on erroneous information provided by his local office, he cannot be disqualified for refusing the work offered on May 23.

By the decision herein, Mr. Medbourn is now on notice as to the amount of wages that have to be offered in order for the work to be considered suitable work by Workforce Development. He should note the average weekly wage paid to him during that quarter of his base period in which his wages were highest. The wages provided in any job offer will be compared to this amount, \$216.93. Mr. Medbourn should also note that the amount of wages necessary to render a job suitable is reduced as the period of unemployment lengthens.

#### DECISION:

The representative's decision dated June 16, 2005, reference 02, is hereby affirmed. No disqualification is imposed for Mr. Medbourn's May 23, 2005 refusal of work, as he had a good-faith belief that he did not have to accept the work in order to retain eligibility for job insurance benefits. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjw