

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

KENTON C ANGERMAN

Claimant,

and

SHORT STAFFED INC

Employer.

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HEARING NUMBER: 14B-UI-10433

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.4-3, 96.5-3-A

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. With the following modification, the members of the Appeal Board find the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Employment Appeal Board modifies the administrative law judge's reasoning and conclusions of law by striking the final paragraph and inserting instead the following:

Under rule 871 IAC 24.24(4) "[b]efore a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work." That rule goes on to specify that "[l]ack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases." 871 IAC 24.24(4).

As rule 24.23(4) makes clear loss of transportation can render a claimant no longer available for work so long as that loss of transportation continues. We thus conclude, as the Administrative Law Judge seemed to indicate, that this Claimant is not available for work so long as the condition of a lack of transportation continues. By that same token, however, we must find under rule 24.24(4) that the Claimant cannot be disqualified for refusal of suitable work, since he was not available, and since lack of transportation by law is deemed to be good cause for refusal. The upshot of our decision is that the Claimant still is not collecting benefits, but now he can start collecting benefits again once he regains transportation to his area of usual employment, and he need not requalify by earning 10 times his weekly benefit amount.

DECISION:

The Board finds that the Claimant was not available for work due to lack of transportation. The Board finds that the Claimant refused suitable work, but under conditions that will not disqualify him for a refusal of suitable work. As a result, the Claimant is disqualified from collecting benefits until such time as he regains transport to his area of usual employment, assuming he is otherwise qualified. We note that the ineligibility imposed by this finding does not require requalification through subsequent earnings.

Kim D. Schmett

Ashley R. Koopmans

RRA/fnv