

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

ORA V AUSTIN  
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BLDG 3 #61  
DES MOINES IA 50309

EXPRESS SERVICES INC  
PO BOX 720660  
OKLAHOMA CITY OK 73172

Appeal Number: 05A-UI-04233-S2T  
OC: 03/21/04 R: 02  
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, 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 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Ora Austin (claimant) appealed a representative's March 15, 2005 decision (reference 05) that concluded she was not eligible to receive unemployment insurance benefits because she refused suitable work with Express Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 11, 2005. The claimant participated personally. The employer participated by B.J. Butler, Personnel Supervisor.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 21, 2004. On approximately February 9, 2005, the claimant was offered a job as a full-time worker and the rate of pay was \$8.00 per hour. The claimant was qualified to perform the work. The claimant declined the work because she had foot problems.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes she is not.

871 IAC 24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

- (1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness she is considered to be unavailable for work. The claimant had foot problems and could not work. She is considered to be unavailable for work after February 9, 2005. The claimant is disqualified from receiving unemployment insurance benefits beginning February 9, 2005, due to her unavailability for work.

DECISION:

The unemployment insurance decision dated March 15, 2005 (reference 05) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

bas/pjs