

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

CHERYL A RAMLOW  
713 N MAIN #4  
BURLINGTON IA 52601

L & B STAFFING INC  
301 E ACCESS RD  
PO BOX 128  
COLUMBUS JUNCTION IA 52738

Appeal Number: 04A-UI-05466-CT  
OC: 04/18/04 R: 04  
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, 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  
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

L & B Staffing, Inc. (L & B) filed an appeal from a representative's decision dated May 10, 2004, reference 05, which held that no disqualification would be imposed regarding Cheryl Ramlow's April 18, 2004 refusal of work. After due notice was issued, a hearing was held by telephone on June 7, 2004. Ms. Ramlow participated personally. The employer participated by Linda Watson, Owner, and Brenda Burton, Scheduling Specialist.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Ramlow began working for L & B, a temporary placement service, in May 2003. She accepted an assignment to work on April 18, 2004 from 11:00 p.m. until 7:00 a.m. in Kalona. Ms. Ramlow experienced car trouble and was unable to make it to the assignment. She made a collect call to her daughter-in-law and had her contact the employer on her behalf. She was able to give a little over one hour's notice that she would be unable to be at work. Ms. Ramlow was also unable to complete an assignment in Keota on April 19 due to lack of transportation.

The employer had work available in Lone Tree, Kalona, and Keota during the period in April when Ms. Ramlow lost her means of transportation. She was seeking work through the employer to only work in the Burlington area. She did not have her own transportation again until approximately the week of May 23, 2004. She filed her claim for job insurance benefits effective April 18, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect Ms. Ramlow's failure to work on April 18 has on her claim for job insurance benefits. Her failure to report did not result in a separation from the employment. Ms. Ramlow had accepted the work and then failed to report for the shift because she had car trouble. The administrative law judge concludes that her lack of transportation presented an availability issue. In order to receive job insurance benefits, an individual must be available for work. Iowa Code Section 96.4(3).

It is true that Ms. Ramlow was willing and able to work in the Burlington area where she would not need to have her own vehicle. She had accepted assignments outside of Burlington but was unable to complete them because she did not have a vehicle. Therefore, the distance to the assignments did not cause Ms. Ramlow to decline them. Given the range of locations at which the employer had work, the administrative law judge concludes that Ms. Ramlow's lack of a vehicle presented a significant roadblock to her being available to accept assignments with L & B. An individual is not considered available for work if she has lost her means of transportation to the area of her usual employment. See 871 IAC 24.23(4). For the above reasons, Ms. Ramlow is disqualified from receiving benefits effective April 18 through May 22, 2004 as she was not available for work within the meaning of Section 96.4(3).

Ms. Ramlow received \$298.00 in job insurance benefits for each of the five weeks ending May 22, 2004. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code Section 96.3(7).

#### DECISION:

The representative's decision dated May 10, 2004, reference 05, is hereby modified. Ms. Ramlow is denied benefits from April 18 through May 22, 2004, as she was not available for work within the meaning of the law. Benefits are allowed effective May 23, 2004, provided she satisfies all other conditions of eligibility. Ms. Ramlow has been overpaid \$1,490.00 in job insurance benefits.

cfc/b