

**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**

**KENNETH D COLEBANK  
707 FACTORY PL  
SHENANDOAH IA 51601**

**MANPOWER TEMPORARY SERVICES  
% TALX UC EXPRESS  
P O BOX 66864  
ST LOUIS MO 63166-6864**

**Appeal Number: 04A-UI-03205-CT  
OC: 12/14/03 R: 01  
Claimant: Appellant (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

STATEMENT OF THE CASE:

Kenneth Colebank filed an appeal from a representative's decision dated March 15, 2004, reference 04, which denied benefits on a finding that he did not have transportation. After due notice was issued, a hearing was held by telephone on April 14, 2004. Mr. Colebank participated personally. The employer did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: On or about January 5, 2004, Mr. Colebank was discharged from an assignment with Eaton Corporation where he had been placed by Manpower on December 19, 2003. On January 9, he was offered a new assignment with Romach to work as a welder. The job was approximately 25 miles from Mr. Colebank's home and he did not have his own transportation to and from the job site. He was offered the opportunity to ride with others assigned to that location but declined. Mr. Colebank notified Manpower on or about January 30, 2004 that his vehicle was fixed and he was again available for work. He did not seek or perform work during the period from when he left Easton until January 30. Mr. Colebank subsequently returned to work with Earl May in February of 2004.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Colebank satisfied the availability requirements of the law when he filed his additional claim for job insurance benefits effective January 4, 2004. He declined available work on January 9 because he did not have transportation to the job site. It was not unreasonable to expect Mr. Colebank to accept work 25 miles from his home given the fact that he does not reside in a large metropolitan area of the state. Manpower was his employer at that point and had laid him off due to lack of work when the Eaton Corporation assignment ended. An individual who is on layoff is expected to remain available to the employer that laid him off. See 871 IAC 24.23(41). Where an individual is unable to work because of lack of transportation, he is considered unavailable for work. See 871 IAC 24.23(4). Because he did not have transportation, Mr. Colebank is not eligible to receive job insurance benefits from January 11 through January 31, 2004. Since the bulk of the workweek had elapsed before he was offered work on Friday, January 9, the disqualification shall be effective with the following Sunday, January 11.

#### DECISION:

The representative's decision dated March 15, 2004, reference 04, is hereby modified. Mr. Colebank is not eligible to receive job insurance benefits for the three weeks ending January 31, 2004 because he did not have transportation and, therefore, was not available for work within the meaning of the law.

cfc/