

**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**

**JEFFREY J BLODGETT
1029 – 9TH AVE SE
CEDAR RAPIDS IA 52403**

**DIAMOND SHINE FLOORCARE
SPECIALISTS INC
PO BOX 106
VINTON IA 52349-0640**

**Appeal Number: 04A-UI-12493-CT
OC: 10/10/04 R: 03
Claimant: Respondent (3)**

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4(3) – Able and Available
Section 96.5(3)a – Refusal of Work
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Diamond Shine Floorcare Specialists, Inc. filed an appeal from a representative's decision dated November 15, 2004, reference 04, which allowed benefits to Jeffrey Blodgett but denied the employer a relief from charges. After due notice was issued, a hearing was held by telephone on December 14, 2004. The employer participated by Michael Cox, President. Mr. Blodgett 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: Mr. Blodgett began working for Diamond Shine Floorcare Specialists, Inc. in approximately December of 2003 as a full-time floor technician. As of October 10, 2004, the effective date of his claim for job insurance benefits, he was on layoff.

Beginning November 18, the employer attempted to contact Mr. Blodgett about work. A female contacted the employer on his behalf to report that he would not be available for work until after the Thanksgiving holiday. On November 27, Mr. Cox went to Mr. Blodgett's home to offer him work. He was offered the same full-time job he had been working at the start of the employment. Mr. Blodgett agreed to return to work on Sunday, November 28. However, he notified the employer on Sunday afternoon that he did not want to work for the company because he did not feel he had a good working relationship with Mr. Cox. The work paid \$8.50 per hour. The average weekly wage paid to Mr. Blodgett during that quarter of his base period in which his wages were highest was \$275.27.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Mr. Blodgett has satisfied the availability requirements of Iowa Code section 96.4(3) since filing his claim effective October 10, 2004. He was on a temporary layoff when he filed his claim. An individual who is laid off due to lack of work must remain available to the employer that laid him off. See 871 IAC 24.23(41). Mr. Blodgett's friend told the employer on or about November 18 that Mr. Blodgett would not be available until after Thanksgiving. Based on this, the administrative law judge concludes that he was not available for work during the week ending November 27, 2004. Accordingly, he was not entitled to the \$118.00 in job insurance benefits he received for the week and must repay this amount.

The next issue is whether any disqualification should be imposed for Mr. Blodgett's November 28 refusal of work. The work was suitable as it was the same work he had previously performed for this employer. The job paid \$340.00 per week, which exceeds the average weekly wage paid to Mr. Blodgett during that quarter of his base period in which his wages were highest. Therefore, the wages met the criteria set forth in Iowa Code section 96.5(3)a. Mr. Blodgett refused the work because he did not feel he had a good working relationship with Mr. Cox. He did not participate in the hearing to explain his reason for declining the work. The administrative law judge concludes that he has failed to establish that he had good cause for refusing the offer of suitable work. Therefore, the refusal constituted a disqualifying event. Mr. Blodgett has not claimed benefits since the week ending November 27, 2004 and, therefore, no overpayment results from the refusal of work.

DECISION:

The representative's decision dated November 15, 2004, reference 04, is hereby modified. Mr. Blodgett is denied benefits for the week ending November 27, 2004 as he was not available for work that week. He is denied benefits effective November 28, 2004 as he refused an offer of suitable work without good cause. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Blodgett has been overpaid \$118.00 in job insurance benefits for the week ending November 27, 2004.

cfc/tjc