

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

REBECCA L HULL
642 S PENNSYLVANIA #1
MASON CITY IA 50401

EXPRESS SERVICES INC
PO BOX 720660
OKLAHOMA CITY OK 73172

Appeal Number: 04A-UI-05153-CT
OC: 01/18/04 R: 02
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, 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

STATEMENT OF THE CASE:

Rebecca Hull filed an appeal from a representative's decision dated April 30, 2004, reference 07, which denied benefits effective January 18, 2004 on a finding that she did not satisfy the availability requirements of the law. After due notice was issued, a hearing was held by telephone on May 28, 2004. The employer participated by Jamie Mullins, Staffing Consultant. Ms. Hull 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 January 13, 2004, Ms. Hull reactivated her status with

Express Services, Inc. (Express), a temporary placement service. She was offered work on January 15 but declined it because she did not have transportation. The job refusal has already been adjudicated by Workforce Development in the representative's decision dated April 30, 2004, reference 06.

On January 27, Ms. Hull contacted Express but no work was available. Although she was not maintaining weekly contact with Express, a message regarding work was left for her on February 10. Express did not hear from her until February 18, at which time the work she had been called for on February 10 was no longer available. Ms. Hull called again on February 25 but no work was available. On March 3, she was offered an assignment to start on March 15. She worked March 15 and 16 at Alexander Batteries. On March 22 and March 31, the employer left messages for Ms. Hull but they were not returned. On April 23, another message was left. Contact was made and Ms. Hull was offered an assignment on April 28, which would begin after she successfully passed a drug screen. Because she did not pass the drug screen, she was not placed. She was advised that she was being deactivated with Express until such time as she could provide a negative drug screen.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Hull has satisfied the availability requirements of Iowa Code Section 96.4(3) since filing her claim effective January 18, 2004. She reactivated her status with Express on January 15, prior to filing her claim. Although she did decline an offer of work on that date, she was otherwise available for work. Her next contact with Express was on January 27, at which time there was no work available. She was not again contacted about available work until February 10. The administrative law judge presumes that if work had been available through Express between January 15 and February 10, such work would have been offered to Ms. Hull. It does not appear that her failure to maintain weekly contact with Express effected whether work was offered, as they continued to leave messages for her about work even though she was not calling in her availability. There was no evidence that Ms. Hull was not available for work during the period from January 15 through at least the week ending February 7, 2004. Therefore, it is concluded that she was available for work during that period.

Ms. Hull did not respond to the February 10 message until February 18. Given the delay in responding, the administrative law judge presumes that she was not available for work. She did not contact the employer thereafter until February 25. For the above reasons, benefits are denied from February 8 through February 21. Inasmuch as Ms. Hull was again in contact with Express on February 25 regarding her availability, benefits are allowed effective February 22. Ms. Hull did accept and begin an assignment on March 15. During the interim from February 22, she continued to be available for work. After beginning the assignment, she only worked two days and was again unemployed as of March 17. Because she did not work the majority of the workweek, she was still available for work during the week ending March 20.

Express began leaving messages for Ms. Hull again on March 22. A message was also left for her on March 31. However, she did not respond to the messages. Again, given her failure to respond, the administrative law judge presumes that she was not available for work. Therefore, benefits are again denied effective March 21. It does not appear that Ms. Hull presented herself as available again until April 28, at which time she accepted work. The work offer was rescinded based on a positive drug screen. She has been advised that she cannot resume working until she provides a clear drug screen. Inasmuch as she has not presented documentation that she is drug-free, the disqualification imposed effective March 21 is continued.

DECISION:

The representative's decision dated April 30, 2004, reference 07, is hereby modified. Ms. Hull is allowed benefits effective January 18 through February 7 and from February 22 through March 20, 2004, as she was available for work during these periods. Benefits are denied for all other periods and until such time as Ms. Hull satisfies Workforce Development that she is again available for work, provided she satisfies all other conditions of eligibility.

cfc/b