

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-05467-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, 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 96.3(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 06, which held that no disqualification would be imposed regarding Cheryl Ramlow's April 19, 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 19, 2004 in Keota. Ms. Ramlow experienced car trouble and was unable to make it to the assignment. She called to cancel the assignment. Ms. Ramlow was also unable to complete an assignment in Kalona on April 18 due to lack of transportation. She filed her claim for job insurance benefits effective April 18, 2004.

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.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect Ms. Ramlow's failure to work on April 19 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). Ms. Ramlow did not have transportation again until the week of May 23, 2004. For the above reasons, she 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. An overpayment in the amount of \$1,490.00 has already been assessed in Appeal 04A-UI-05466-CT.

DECISION:

The representative's decision dated May 10, 2004, reference 06, 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, as provided in Appeal 04A-UI-05466-CT.

cfc/b