

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

JASON L ROBERTS
607 E DES MOINES ST
BROOKLYN IA 52211

MIRON CONSTRUCTION CO INC
PO BOX 509
NEENAH WI 54957-0509

Appeal Number: 04A-UI-08736-AT
OC: 02-15-04 R: 02
Claimant: Appellant (1)

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 96.5-4 – Labor Disputes

STATEMENT OF THE CASE:

Jason L. Roberts filed a timely appeal from an unemployment insurance decision dated June 21, 2004, reference 02, which denied benefits to him for the two weeks ending May 15, 2004 upon a finding that he was unemployed during those weeks because of a work stoppage incident to a labor dispute. After due notice was issued, a telephone hearing was held September 1, 2004 with Mr. Roberts participating. Although the employer provided the name and telephone number of a witness, that number was answered by a recording advising that the person was unavailable. The administrative law judge left instructions for the individual to contact the Agency immediately if he wished to participate. There was no further contact from the company prior to the closing of the record.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Jason L. Roberts is a traveling carpenter affiliated with Carpenters' Local 1260 in Iowa City. In May 2004, Mr. Roberts was working in Des Moines at a construction site for Miron Construction Company. For the two weeks between May 2 and May 15, 2004, the Des Moines operators' union was on strike against Miron Construction Company at the work site. Mr. Roberts' union honored the picket line.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Roberts was unemployed as the result of a labor dispute. It does.

Iowa Code Section 96.5-4 denies unemployment insurance benefits to individuals while on strike if the individual is participating in, financing or directly interested in the labor dispute. An individual who is unemployed because of failing or refusing to cross a picket line during the labor dispute is considered to be involved in the dispute and, thus, ineligible for unemployment insurance benefits. See 871 IAC 23.34(5).

The evidence in this record establishes that although Mr. Roberts' union was not striking Miron Construction Company, it honored the picket line. Therefore, benefits must be withheld.

DECISION:

The unemployment insurance decision dated June 21, 2004, reference 02, is affirmed. Benefits are withheld for the two weeks ending May 15, 2004.

tjc/tjc