

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

JOHNATHAN M THOMAS

Claimant

and

MILLER LANDSCAPE MATERIAL INC

Employer

:
:
:
:
:
:
:
:
:

HEARING NUMBER: 21B-UI-07754

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law to include the following as supportive legal analysis:

The Claimant may requalify for benefits once he has earned ten times his weekly benefit amount in paid wages for insured work, or received a full medical release to return to work and offered his services, whichever comes first.

Lastly, the Board cannot waive the overpayment in the case before us, because there was no hearing, and there must be evidence for us to waive the federal FPUC and PEUC overpayments. “[W]aiver determinations must be made on the facts and circumstance of each individual claim, blanket waivers are not permissible.” UIPL 15-20, Change 1, Attachment I, p. I-3 (DOL ETA May 9, 2020). However, the Claimant may still

request waivers of his FPUC and PEUC overpayments from Iowa Workforce Development. Instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemploymentinsurance-overpayment-and-recovery>. The Claimant should then carefully read and follow all instructions from Iowa Workforce on how to apply for waivers of FPUC and PEUC, what information to supply, and how to appeal if necessary.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv