

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

THOMAS L JOHNSON
1803 W 59TH ST
DAVENPORT IA 52806

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-04561-AT
OC: 03-21-04 R: 04
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 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Thomas L. Johnson filed a timely appeal from an unemployment insurance decision dated April 2, 2004, reference 02, which denied unemployment insurance benefits upon a finding that he was not medically able to work. After due notice was issued, a telephone hearing was held on May 6, 2004 with Mr. Johnson participating. This matter is considered on a consolidated record with 04A-UI-04560-AT.

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: Thomas L. Johnson's primary occupation is warehouse worker. He also has experience working in the grocery and sales industries. As a result of knee replacement surgery, he has been released only for sedentary work. There are no jobs currently in his labor market area for which he has the requisite job qualifications and medical release.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Johnson meets the eligibility requirement of being medically able to work. He does not.

Iowa Code Section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The statute does not require that an individual be able to work in his primary occupation or his most recent occupation. The individual is required, however, to establish the existence of at least one job in the individual's labor market area which the individual is medically able to perform and for which the individual has the requisite job qualifications. The evidence does not establish any such jobs in Mr. Johnson's labor market area. Therefore, he is not presently eligible for benefits.

DECISION:

The unemployment insurance decision dated April 2, 2004, reference 02, is affirmed. The claimant is ineligible for unemployment insurance benefits at this time.

tjc/kjf