

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

CLINT A JOHNSON
BOX 1840
OTTUMWA IA 52501

EXCEL CORPORATION
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-10263-AT
OC: 08-22-04 R: 03
Claimant: Appellant (5)

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 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Clint A. Johnson filed a timely appeal from an unemployment insurance decision dated September 20, 2004, reference 02, which held him ineligible for unemployment insurance benefits for the week ending August 28, 2004 upon a finding that he was entitled to receive vacation pay for the week in question. After due notice was issued, a telephone hearing was held October 6, 2004 with Mr. Johnson participating. His former employer, Excel Corporation, did not respond to the hearing notice.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Clint A. Johnson filed a claim for unemployment insurance benefits effective August 22, 2004. In connection with his separation from employment he received one week of vacation pay. Mr. Johnson reported the vacation pay for the week ending September 4, 2004. As a result he received no benefits for that week. Excel Corporation reported the vacation pay for the week ending August 28, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether benefits must be withheld for one or two weeks because of Mr. Johnson's receipt of vacation pay. The administrative law judge concludes that benefits must be withheld for only one week since both claimant and employer reported one week of vacation pay. Since Mr. Johnson reported the vacation pay for the week ending September 4, 2004 and received no unemployment insurance benefits as a result thereof, the administrative law judge concludes that for the purpose of this hearing it is fair and equitable to apply the one week denial of benefits mandated by Iowa Code section 96.5-7 to the week ending September 4, 2004 rather than the week reported by the employer.

DECISION:

The unemployment insurance decision dated September 20, 2004, reference 02, is modified. The claimant is ineligible for unemployment insurance benefits for the one week ending September 4, 2004.

tjc/tjc