

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JOSEPH ALDERSON
Claimant

APPEAL NO. 11A-UI-03489-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

M E'S BODY SHOP
Employer

**OC: 01/30/11
Claimant: Respondent (1)**

Section 96.5 – Separation from Employment
Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

M E's Body Shop filed a timely appeal from an unemployment insurance decision dated March 14, 2011, reference 01, that allowed benefits to Joseph Alderson. After due notice was issued, a telephone hearing was held May 16, 2011 with Mr. Alderson participating and being represented by Corey Walter, Attorney at Law. Exhibits A through C were admitted into evidence on his behalf. Owner Mike Eggers participated for the employer.

ISSUES:

Was the claimant's separation from employment a disqualifying event?
Is the claimant eligible for unemployment insurance benefits?

FINDINGS OF FACT:

Joseph Alderson was employed for over a year by M E's Body Shop. He last performed services for the employer on February 10, 2010. He reported an injury on the job that day. He later underwent surgery and was released to return to work with permanent restrictions in late July 2010. Given the nature of the restrictions, the employer had no work that Mr. Alderson could perform.

He would be able to work as a supervisor or manager in an auto body shop business or in related retail businesses provided he took precautions to stay within his medical restrictions.

REASONING AND CONCLUSIONS OF LAW:

Following a separation from employment, an individual is disqualified for benefits only if the individual has voluntarily left without good cause attributable to the employer or has been discharged for misconduct in connection with the employment. See Iowa Code § 96.5-1 and 96.5-2-a, respectively. Mr. Alderson's separation from employment did not fall into either category. He did not choose to leave employment, and the employer was unable to provide

work consistent with his restrictions. No disqualification may be imposed due to the separation from employment.

In order to receive unemployment insurance benefits, an individual must establish that he or she is medically able to work and have sufficient job skills to perform some type of work in the individual's local labor market area. Mr. Alderson has given examples of several types of positions that would meet those two criteria. Benefits are allowed.

DECISION:

The unemployment insurance decision dated March 14, 2011, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs