

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

ABC BEVERAGE MANUFACTURERS INC
ATTN HUMAN RESOURCES
PO BOX 4656
DES MOINES IA 50306

Appeal Number: 04A-UI-04560-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 96.5-1-d – Voluntary Quit for Medical Reasons

STATEMENT OF THE CASE:

Thomas L. Johnson filed a timely appeal from an unemployment insurance decision dated April 9, 2004, reference 01, which denied benefits to him. After due notice was issued, a telephone hearing was held May 6, 2004 with Mr. Johnson participating. Division Manager Robert Jones participated for the employer, ABC Beverage Manufacturers, Inc.

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: Thomas L. Johnson was employed by ABC

Beverage Manufacturers, Inc. from February 1999 until March 22, 2004. He last worked full-time as a warehouse manager. Mr. Johnson had knee replacement surgery for a condition not caused by his work. He went on leave of absence receiving short-term disability. At the time that the disability and the leave of absence expired, he still could not return to work.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Johnson's separation from employment was a disqualifying event. It was.

Iowa Code Section 96.5-1-e provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

e. The individual left employment upon the advice of a licensed and practicing physician, for the sole purpose of taking a member of the individual's family to a place having a different climate, during which time the individual shall be deemed unavailable for work, and notwithstanding during such absence the individual secures temporary employment, and returned to the individual's regular employer and offered the individual's services and the individual's regular work or comparable work was not available, provided the individual is otherwise eligible.

The evidence establishes that Mr. Johnson's medical condition was not caused or aggravated by his work. Therefore, for him to receive unemployment insurance benefits, he must comply with the provisions of the statute set forth above. One requirement is that he return to his former employer with an unrestricted release. Since he has not done so and since he has not requalified for benefits with subsequent earnings, benefits must be withheld until he requalifies pursuant to Iowa Code Section 96.5-1-d or requalifies by earning ten times his weekly benefit amount in wages for subsequent covered employment.

DECISION:

The unemployment insurance decision dated April 9, 2004, reference 01, is affirmed. Benefits are withheld until the claimant has requalified pursuant to Iowa Code Section 96.5-1-d or 96.5-1-g.

tjc/kjf