

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS L JOHNSON
Claimant

APPEAL NO. 17A-UI-04518-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LIBERTY HOLDINGS INC
Employer

OC: 04/02/17
Claimant: Appellant (4)

Iowa Code Section 96.5(2)(a) – Discharge for Misconduct & Requalification

STATEMENT OF THE CASE:

Thomas Johnson filed a timely appeal from the April 24, 2017, reference 05, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the claims deputy's conclusion that Mr. Johnson was discharged on February 17, 2016 for having too many accidents for which he was found to be at fault. After due notice was issued, a hearing was held on May 18, 2017. Mr. Johnson participated. Attorney Justin Dalton represented the employer and presented testimony through Bob Friedman. Department Exhibits D-1 and D-2 were received into evidence.

ISSUE:

Whether the claimant has requalified for benefits by working in and being paid wages for insured work equal to 10 times his weekly benefit amount subsequent to his February 2016 separation from Liberty Holdings, Inc. and prior to establishing the original claim for benefits that was effective April 22, 2017.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Thomas Johnson established an original claim for benefits that was effective April 2, 2017. Workforce Development set Mr. Johnson's weekly benefit amount at \$464.00. On April 24, 2017, a Workforce Development claims deputy entered a reference 05, decision that disqualified claimant Thomas Johnson for unemployment insurance benefits in connection with the claim, based on the claims deputy's conclusion that Mr. Johnson was discharged on February 17, 2016 for having too many accidents for which he was found to be at fault. Mr. Johnson did not return to Liberty Holdings, Inc. after his February 2016 separation from that employment. Subsequent to his February 2016 separation from this employer and prior to the April 2, 2017 unemployment insurance claim, Mr. Johnson worked in five additional employments for which he was paid well in excess of 10 times his weekly benefit amount. When Liberty Holdings made its quarterly wage report for the calendar quarter that ended December 31, 2016, the employer reported paying Mr. Johnson \$5,000.00 in wages for that quarter. That \$5,000.00 figure was a legal settlement amount intended to compensate Mr. Johnson for lost wages, not wages for work performed by Mr. Johnson.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The evidence in the record establishes that Mr. Johnson requalified for benefits by working in and being paid wages for insured work equal to 10 times his weekly benefit amount subsequent to his February 2016 separation from Liberty Holdings, Inc. and prior to establishing the original claim for benefits that was effective April 22, 2017. Mr. Johnson is eligible for benefits in connection with the April 2, 2017 claim, provided he meets all other eligibility requirements. Liberty Holdings, Inc. will not be assessed for benefits paid to Mr. Johnson in connection with claim.

DECISION:

The April 24, 2017, reference 05, decision is modified as follows. The claimant requalified for benefits by working in and being paid wages for insured work equal to 10 times his weekly benefit amount subsequent to his February 2016 separation from Liberty Holdings, Inc. and prior to establishing the original claim for benefits that was effective April 22, 2017. The claimant is eligible for benefits in connection with the April 2, 2017 claim, provided he meets all other eligibility requirements. Liberty Holdings, Inc. will not be assessed for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs