

**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**

**RONNIE F LOVE
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**WARREN PROPERTIES INC
% EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

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**Appeal Number: 04A-UI-07174-C
OC: 05/30/04 R: 02
Claimant: Respondent (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 – Separation Due to Illness/Injury

STATEMENT OF THE CASE:

Warren Properties, Inc. filed an appeal from a representative's decision dated June 18, 2004, reference 01, which held that no disqualification would be imposed regarding Ronnie Love's separation from employment. After due notice was issued, a hearing was held on August 3, 2004 in Des Moines, Iowa. Mr. Love participated personally and was represented by Christopher Godfrey, Attorney at Law. Exhibits A through H, exclusive of E, were admitted on Mr. Love's behalf. The employer participated by Pat Hawkins and Bert Hawkins, Area Supervisors, and was represented by Michael Sellers, Attorney at Law.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Love began working for Warren Properties, Inc. on August 16, 2003 as a full-time maintenance worker. On or about April 21, 2004, he sustained a work-related injury while moving furniture in an apartment unit. He saw his doctor and was released to return to work on April 22 with the recommendation that he not lift items weighing more than ten pounds. On April 27, his doctor provided a statement that he could return to work on April 30 and was to avoid frequent bending and twisting. Mr. Love provided the employer with a copy of his April 27 doctor's statement. He was then placed on a leave of absence until May 27. Mr. Love did not sign any document requesting a leave of absence. There was no doctor's statement requiring him to be off work as of April 27.

Mr. Love subsequently provided the employer with a doctor's statement releasing him to return to work on May 20 with the recommendation that he not lift items weighing more than five pounds. Mr. Love made numerous attempts to return to work commencing May 27. He was told that the employer did not have light-duty work available for him. The employer had a number of light duties Mr. Love could have performed but none of the lighter duties were offered to him. Because the employer would not provide him with work, Mr. Love filed a claim for job insurance benefits effective May 30, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Love was separated from employment for any disqualifying reason. He became separated from employment when the employer failed to return him to work following a leave of absence. There was no doctor's recommendation that Mr. Love be off work beginning April 27, 2004. He testified that the leave of absence was the employer's idea, not his. This contention is supported by the fact that he did not sign any request for a leave of absence. As of April 27, he was only restricted from frequent bending and twisting. If the employer had such work available as of April 27, one would have to question why Mr. Love was placed on a leave of absence rather than assigned lighter work.

Mr. Love attempted to return to work after the employer-imposed leave of absence. He was still only able to perform light duty at that point. During the hearing, the employer recited an extensive list of light-duty tasks available in its maintenance department. None of this work was assigned to Mr. Love. It was the employer's contention that Mr. Love was to return on May 28 with a list of duties he felt capable of performing but failed to do so. The employer further testified that Mr. Love came to the office on June 4 and indicated he was quitting because he was not able to perform his job. It does not appear that anyone questioned Mr. Love during the week between May 28 and June 4 as to why he was not working. He lived on the premises and was readily accessible to the employer. The fact that no one questioned why he was not working lends credence to his contention that the employer had told him no light duty work was available. Therefore, the employer had no reason to question his failure to be at work.

After considering all of the evidence, the administrative law judge concludes that the employer failed to provide Mr. Love with suitable work after his return from a leave of absence. Accordingly, it is concluded that his separation was for no disqualifying reason. Therefore, benefits are allowed.

DECISION:

The representative's decision dated June 18, 2004, reference 01, is hereby affirmed. Mr. Love was separated from Warren Properties, Inc. for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjf