IN THE COURT OF APPEALS OF IOWA

No. 1-554 / 91-567

FILED
JUN 25 1992
CLERK SUPREME COURT

DOUGLAS L. JENSON,

Appellee,

vs.

EMPLOYMENT APPEAL BOARD,

482

Appellant,

and

IOWA LAKES ELECTRIC COOPERATIVE,

Intervenor-Appellant.

Appeal from the Iowa District Court for Polk County, Joel D. Novak, Judge.

The Employment Appeal Board and the employer appeal from the district court decision on judicial review which reversed the board's disqualification of the employee from receipt of unemployment benefits. **AFFIRMED BY OPERATION OF LAW.**

William C. Whitten and Joe E. Smith, Des Moines, for appellant Employment Appeal Board.

Joseph L. Fitzgibbons, Harold W. White, and David A. Lester of Fitzgibbons Brothers, Estherville, for appellant Iowa Lakes Electric Cooperative.

Sally A. Buck and Sharon K. Malheiro of Davis, Hockenberg, Wine, Brown, Koehn & Shors, P.C., Des Moines, for appellee.

Considered en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1991).

AFFIRMED.

For affirmance: Oxberger, C.J., and Schlegel and Hayden, JJ.

For reversal: Donielson, Sackett, and Habhab, JJ.