

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LEVI HERNANDEZ**  
Claimant

**APPEAL NO: 12A-UI-07237-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QWEST CORPORATION**  
Employer

**OC: 03/07/10**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-2-a - Prior Adjudication of a Discharge Separation

**STATEMENT OF THE CASE:**

Levi Hernandez (claimant) appealed an unemployment insurance decision dated June 6, 2012, reference 01, which held that his separation from Qwest Corporation (employer) was adjudicated on a prior claim and that decision remains in effect. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled held on July 11, 2012. The claimant participated in the hearing. The employer participated through John O'Fallon, Hearing Representative. This hearing was held simultaneously with Appeal Number 12A-UI-07236-BT. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the separation in the case herein has been previously adjudicated.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: On February 9, 2012, a decision was issued concerning the claimant's separation from the employer. The decision, reference 02, denied benefits to the claimant. Iowa Workforce Development had no record of any appeal having been filed on or before February 19, 2012. The claimant appealed the decision with this appeal and both cases were heard simultaneously

**REASONING AND CONCLUSIONS OF LAW:**

The issue to be determined is whether the claimant's separation from this employer has been previously adjudicated.

Iowa Code section 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.

There was, in fact, a decision issued on February 9, 2012, concerning the separation. A finding of fact or law, judgment, conclusion, or final order made by an employee or representative of Workforce Development, an administrative law judge, or the Employment Appeal Board is binding upon the parties in connection with proceedings pertaining to the Iowa Employment Security Act. See Iowa Code § 96.6(4). A decision of a Workforce Development claims representative becomes a final Agency decision if there is no appeal from the decision filed within ten days of the mailing date of the decision. See Iowa Code § 96.6(2).

The claimant did not appeal the initial determination until he filed an appeal to this decision. Consequently, the determination regarding his separation from the employer will be addressed in Appeal Number 12A-UI-07236-BT and this decision will have no effect on the final outcome of that case.

**DECISION:**

The unemployment insurance decision dated June 6, 2012, reference 01, is affirmed. The claimant's separation has been previously adjudicated and the final determination will be made in Appeal Number 12A-UI-07236-BT.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs