

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIO D YERO
Claimant

APPEAL NO. 13A-UI-04040-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 03/17/13
Claimant: Appellant (4)**

871 IAC 24.28(6) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 1, 2013, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 6, 2013. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether the claim was previously adjudicated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 17, 2012.

Claimant was discharged on February 17, 2012 by employer because claimant did not have his papers in order to work in the USA.

This matter was adjudicated in a decision dated June 28, 2012, and by appeal number 12A-UI-06600-S2T. The decision was modified to allow benefits effective April 11, 2012.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.28(6) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(6) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

In this matter, the evidence has established that the claim was previously adjudicated by an administrative law judge decision of June 28, 2012. The Bureau is without authority to rehear this matter as a decision was issued on the merits and is final. The issue cannot be adjudicated a second time. However, the ANDS decision incorrectly recited the result as denying benefits. Claimant was allowed benefits on appeal effective April 11, 2012.

DECISION:

The decision of the representative dated April 1, 2012, reference 02, is modified in favor of claimant. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements effective April 11, 2012 based on the June 28, 2012 decision of the administrative law judge.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css