

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL L REA
Claimant

APPEAL NO. 09A-UI-06661-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACTION WAREHOUSE CO LTD
Employer

OC: 11/30/08
Claimant: Respondent (1)

Section 96.6-2 – Previous Adjudication

STATEMENT OF THE CASE:

The employer, Action Warehouse, filed an appeal from a decision dated April 20, 2009, reference 01. The decision found the separation of claimant Michael Rea had previously been adjudicated on a prior claim. After due notice was issued, a hearing was held by telephone conference call on May 26, 2009. The claimant participated on his own behalf. The employer participated by Sales Manager Maria Endres.

ISSUE:

The issue is whether the separation has been previously adjudicated.

FINDINGS OF FACT:

Michael Rae filed a claim for unemployment benefits with an effective date of December 2, 2007. That claim was extended for emergency unemployment benefits and a decision was issued December 9, 2008, on his separation from his employment with Action Warehouse, allowing him benefits. That decision was not appealed.

The current claim was filed effective November 30, 2008, and the current decision was issued finding the separation had already been determined.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether

any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant's separation from this employment was adjudicated on a prior claim. That decision has been affirmed.

DECISION:

The decision of the representative dated April 20, 2009, reference 01, is affirmed. Michael Rea is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css