

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUKE AUBERT
Claimant

APPEAL NO. 09A-UI-10666-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

XPAC
Employer

OC: 04/26/09
Claimant: Respondent (1)

871 IAC 24.38(1)(c) – Readjudication of Separation Decision Prohibited

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 21, 2009, reference 05, decision that allowed benefits and held the employer liable for benefits in connection with an October 17, 2008 separation. After due notice was issued, a hearing was held on August 11, 2009. Claimant participated. Bridget Steele, Employee Relations Coordinator, represented the employer. Exhibit One and Department Exhibits D-1, D-2 and D-3 were received into evidence.

ISSUE:

Whether Iowa, the paying state in connection with a combined wage claim, may again adjudicate the October 17, 2008 separation previously adjudicated by Illinois, the transferring State.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Duke Aubert separated from the employment with XPAC, an Illinois employer, on October 17, 2008. Mr. Aubert filed a claim for benefits in Illinois. In connection with the Illinois claim, on November 22, 2008, the Illinois Department of Employment Security entered a decision that Mr. Aubert was discharged for XPAC for no disqualifying reason and was eligible for unemployment insurance benefits.

After Mr. Aubert exhausted his claim in Illinois, Mr. Aubert established an Iowa claim for benefits that was effective April 26, 2009. The claim was a combined wage claim, based in part on wage credits transferred from Illinois and base on the employment with XPAC. Based on the prior adjudication in Illinois, Iowa Workforce Development deemed Mr. Aubert eligible for benefits, provided he met all other eligibility requirements, and deemed XPAC liable for benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 871 IAC 24.38(96) provides as follows:

Combined wage claim.

24.38(1) *Purpose of plan.* The combined wage program is to enable an unemployed worker with covered employment or wages in more than one state to combine all such employment and wages in one state in order to qualify for benefits or to receive increased benefits.

c. The rights of the individual under the combined wage claim plan shall be determined by the paying state after the combining of all wages available from the transferring states; however, in the case in which another state transfers wages to Iowa and Iowa is the paying state, Iowa cannot again adjudicate a separation that has been previously adjudicated by the transferring state. The department shall respect the prior adjudication of the transferring state if the department is aware of the decision and will apply the Iowa requalification criteria, unless the individual has requalified pursuant to the liable state's requalification criteria.

The weight of the evidence in the evidence indicates that Iowa is the paying state and Illinois is the transferring in connection with the combined wage claim Mr. Aubert established in Iowa on April 29, 2009. The evidence indicates that on November 22, 2008, Illinois entered a decision that adjudicated the separation. Under the rule cited above, Iowa cannot again adjudicate the separation. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account will be charged for benefits.

DECISION:

The Agency representative's July 21, 2009, reference 05, is affirmed. In connection with the combined wage claim wherein Iowa is the paying state and Illinois is the transferring state, Iowa cannot again adjudicate the separation that was previously adjudicated in Illinois. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account will be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css