

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLOS C GARCIA
Claimant

APPEAL NO. 09A-UI-19374-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KNIFE RIVER MIDWEST LLC
Employer

**Original Claim: 11/22/09
Claimant: Appellant (1)**

871 IAC 24.19(1) – Determination and Review of Benefit Rights
871 IAC 24.28(6-8) – Prior Adjudication

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 16, 2009 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on February 9, 2010. Claimant participated and was represented by Dennis McElwain, Attorney at Law. Employer participated through Crew Superintendent Scott Hunwardsen, Truck Foreman Fred Marchese, and Doris Hill. Employer's Exhibits 1 and 2 were admitted to the record. Claimant's Exhibits A and B were admitted to the record.

ISSUE:

The issue is whether the separation was adjudicated in a prior claim year.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision at issue has been adjudicated in a prior claim year and that decision has been affirmed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation at issue has been adjudicated in a prior claim year and that decision has become final.

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.

871 IAC 24.19(1) provides:

Claims for benefits shall be promptly determined by the department on the basis of such facts as it may obtain. Notice of such determination shall be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the determination. . . . The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken. Unless the claimant or any other such party entitled to notice, within ten days after such notification was mailed to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final.

The issue presented was resolved in a prior claim year (original claim date November 23, 2008) as the representative's decision dated December 14, 2009 (reference 01). The current decision, referring to the prior claim year decision for the same separation date, is affirmed.

DECISION:

The December 16, 2009 (reference 01) decision is affirmed. The prior decision on the separation remains in effect.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw