

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICTORIA A BALLANTYNE
Claimant

APPEAL NO: 12A-UI-10818-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

V & M FARMS
Employer

OC: 07/29/12
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving
Section 96.6-2 - Prior Adjudication
871 IAC 24.38(1)(c) – Readjudication of Separation Decision Prohibited

STATEMENT OF THE CASE:

V & M Farms (employer) appealed a representative's August 28, 2012 decision (reference 01) that concluded Victoria Ballantyne (claimant) was qualified to receive unemployment insurance benefits after a separation from employment because an adjudication on the separation made in the state of Illinois had become final. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 13, 2012. The claimant participated in the hearing. Michael Leer appeared on the employer's behalf and presented testimony from two other witnesses, May Leer and Collene Wagner. During the hearing, Exhibit A-1 was entered into evidence. 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.

ISSUES:

May Iowa, the paying state on the claimant's current claim, again adjudicate the June 20, 2012 separation previously adjudicated by Illinois, the paying state on the claimant's prior claim?

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits allowed.

FINDINGS OF FACT:

The claimant had established a claim for unemployment insurance benefits in the state of Illinois in August 2010. After her separation from employment with the employer as of June 20, 2012, the claimant reopened that claim with an additional claim and received emergency unemployment compensation (EUC) through the state of Illinois until those benefits were exhausted and she became eligible for a claim for regular unemployment insurance benefits in the state of Iowa effective July 29, 2012.

When she reopened her Illinois claim, that state's Department of Employment Security investigated her June 20, 2012 separation to determine if the circumstances of the separation were such as to render her ineligible to receive benefits in that state, as would be the case under Illinois law, as Iowa's law, if the claimant quit without good cause attributable to the employer. On July 19, 2012 the Illinois department's representative issued a decision concluding that the claimant voluntarily quit for good cause attributable to the employer, and that as a result, she was eligible to receive unemployment insurance benefits. A copy of the decision was sent to the employer; the instructions on the decision specified that an appeal must be filed "within thirty (30) days after the date this notice was . . . mailed to you."

The employer did not appeal the Illinois decision, apparently primarily because it did not believe a decision by the Illinois department would have any bearing on the employer's status on the Iowa claim that had been opened July 29, 2012. As a result, the Illinois decision became final. The Iowa representative's decision in this case was therefore issued upon learning that the employer had not appealed the Illinois decision.

The claimant started working for the employer on October 18, 2011. She worked full time as dispatcher in the employer's trucking business. Her last day of work was June 20, 2012. She voluntarily quit work as of that date by walking off the job.

The claimant had been having particular problems with the other dispatcher, the owner's son. He would repeatedly yell, scream, and swear at her. The claimant had discussed these issues earlier in June, but the problems continued. At one point when the claimant was seeking to get away from the behavior, she was told, "set your f - - - ing a - - back down." She concluded that the situation was not going to improve, and left.

REASONING AND CONCLUSIONS OF LAW:

Rules 871 IAC 24.37(1)d and 871 IAC 24.38(1)c specify that Iowa is to respect the prior adjudication of a liable or paying state. Additionally, the Iowa statute recognizes that if a prior determination has been made on the same issue and the adversely affected party fails to make a timely appeal of a representative's decision, the decision on that issue has become final and is not subject to further review, and will be binding on the parties in related proceedings. Iowa Code § 96.6-2. If the employer had a dispute with whether or not the claimant should have been disqualified from eligibility for unemployment insurance benefits as a result of the separation from the employer, then it needed to have filed an appeal from the initial decision regarding the separation within the appeal period for that decision. Iowa Code § 96.6-2; *Beardslee v. Iowa Department of Job Service*, 276 N.W.2d 373 (Iowa 1979). Further, this interpretation is consistent with the constitutional principle of giving full faith and credit to legal determinations made in other states.

The evidence indicates that on July 19, 2012 Illinois, who was a liable or paying state, entered a decision that adjudicated the separation, and the employer did not appeal that decision. Iowa cannot again adjudicate the separation. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account will be charged for benefits.

However, in the alternative, even if the Illinois determination was found not to be binding, the administrative law judge would affirm the representative's decision on the merits of the separation. If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code

§ 96.5-1. Intolerable or detrimental working conditions are good cause for quitting attributable to the employer. 871 IAC 24.26(4). The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

DECISION:

The representative's August 28, 2012 decision (reference 01) is affirmed. The Illinois determination which was not appealed by the employer and became final is binding as a prior adjudication of the separation in Iowa. Even if it was not, the claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

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