

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MOUSA MOUSA-MAKKY
Claimant

HY-VEE INC
Employer

APPEAL 21A-UI-24908-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/14/21
Claimant: Appellant (1)**

Iowa Code § 96.6(3) – Appeals
Iowa Admin. Code r. 871—24.28(6-8) – Prior Adjudication

STATEMENT OF THE CASE:

The claimant, Mousa Mousa-Makky, filed an appeal from the October 27, 2021, (reference 02) unemployment insurance decision that denied benefits based upon a decision in a prior benefit year for the same separation. After due notice was issued, a hearing was held by telephone conference call on January 7, 2022, and was consolidated with the hearing for appeal numbers 21A-UI-24910-AR-T, 21A-UI-24911-AR-T, 21A-UI-24912-AR-T, and 21A-UI-24913-AR-T. Claimant participated personally. Employer, Hy-Vee, Inc., did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the separation adjudicated in a prior claim year?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The separation at issue has been adjudicated in a prior claim year effective March 15, 2020, as the unemployment insurance decision dated March 25, 2021, reference 02. That decision in favor of the employer has been affirmed and become final. See 21A-UI-13060-SN-T and 21B-UI-13060-EAB.

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.

Iowa Code section 96.6(3) provides:

3. Appeals. a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for

contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. The notice for a telephone or in-person hearing shall be sent to all the parties at least ten calendar days before the hearing date. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

Iowa Admin. Code r. 871—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.

Inasmuch as the issue presented was resolved in a prior claim year, the current decision, referring to the prior claim year decision for the same separation date, is affirmed.

DECISION:

The October 27, 2021, (reference 02) unemployment insurance decision is affirmed. The prior decision on the separation remains in effect.



Alexis D. Rowe
Administrative Law Judge

February 1, 2022
Decision Dated and Mailed

ar/mh