

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVE E HUGI
Claimant

APPEAL NO: 14A-UI-11069-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

M MOMBERG BUILDING CONTRACTORS
Employer

OC: 04/20/14
Claimant: Respondent (2/R)

Iowa Code § 96.6(3) – Final Decision

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's October 21, 2014 (reference 04) determination that held the claimant eligible to receive benefits as of July 27, 2014, because he voluntarily quit on July 27, 2014 due to an injury and offered to return to work after he recovered. The claimant did not participate at the November 13 hearing. Andrew Johnston, Attorney at Law, appeared on the employer's behalf. Mari Momberg appeared on the employer's behalf. Based on the administrative record and the law, the administrative law judge concludes the claimant is not qualified to receive benefits based as a result of the decision for Appeal No. 14A-UI-05282.

ISSUE:

Is the claimant qualified to receive benefits as of July 27, 2014?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of April 20, 2014. The claimant appealed a representative's May 12, 2014 (reference 01) determination. This determination held the claimant had voluntarily quit his employment on June 7, 201, for reasons that do not qualify him to receive benefits. A hearing was held before another administrative law judge on June 11, 2014. The administrative judge stated in her decision, "The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefits, provided he is otherwise eligible." See decision for Appeal No. 14A-UI-05282. No one appealed this decision.

On July 27, 2014 the claimant's physician released him to work. The claimant had not worked for the employer since June 7, 2013. On October 8, 2014 a (reference 03) determination was issued that held the claimant was eligible to receive benefits as of July 27, 2014 because he was then medically able to and available for work.

On October 21, 2014 a (reference 04) determination was issued that amended reference 03 and held the claimant eligible to receive benefits as of July 27, 2014 because he left work on July 27, 2014 due to an illness or injury and after he recovered he offered to return to work but no work was available.

REASONING AND CONCLUSIONS OF LAW:

Since no one appealed the decisions for Appeal No. 14A-UI-05282, this decision became final on June 28, 2014. Iowa Code § 96.6(3). This means the claimant is not qualified to receive benefits until he earns ten times his weekly benefit amount of \$408 or \$4080 after June 7, 2013. If he has earned requalifying wages, he must present supporting documentation to his local Workforce office.

As a result of the decision for Appeal No. 14A-UI-05282, the claimant is not qualified to receive as of July 27, 2014; even though he was released to work as of that date (unless he has earned requalifying wages since June 7, 2013.) Based on the decision for Appeal No. 14A-UI-05282, the Department had no legal authority to issue the October 21, 2014 (reference 04) determination and it must be deleted or be considered null and void. The fact the determination indicates a different employment separation date does not mean it can get around the decision issued in Appeal No. 14A-UI-05282. The claimant's employment separation was June 7, 2013 not July 27, 2014.

The bottom line is that unless the claimant has earned \$4080 since June 7, 2013, he is not qualified to receive benefits until he earns these requalifying wages. The administrative record does not indicate the claimant has earned requalifying wages since June 7, 2014, therefore the claimant is not qualified to receive benefits as of July 27, 2014.

If the claimant has received any benefits since July 27, he may be overpaid. The issue of overpayment will be remanded to the Benefits Bureau to determine.

DECISION:

The representatives' October 21, 2104 (reference 04) determination must be deleted or considered null and void because there was no legal authority to issue this determination based on the decision for appeal 14A-UI-05282. The administrative law judge's decision for Appeal No. 14A-UI-05282 was not appealed and is a final decision. As a result, even though the claimant was found medically able to and available for work as of July 27, 2014, the decision for Appeal No. 14A-UI-05282 requires him to earn \$4080 in wages before he is qualified to receive benefits. If the claimant has earned any wages since June 2013 he must provide that documentation to the Department to establish that he earned requalifying wages.

The issue of overpayment for any benefits the claimant received since July 27, 2014 is **remanded** to the Benefits Bureau to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can