

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOUG SPENCER

Claimant

GENERAL MILLS OPERATIONS LLC

Employer

APPEAL 19A-UI-08002-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/08/19

Claimant: Respondent (4)

Iowa Admin. Code r. 871-24.28(6-8) – Prior Adjudication

Iowa Code § 96.5(1)g –Requalification

STATEMENT OF THE CASE:

The employer/appellant, General Mills Operations LLC., filed an appeal from the October 1, 2019 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that determined the claimant’s October 2017 separation had been previously adjudicated. The parties were properly notified about the hearing. A telephone hearing was held on November 1, 2019. The hearing was held jointly with Appeal 19A-UI-08001-JC-T. The claimant, Doug Spencer, participated personally. The employer, General Mills Operations LLC., participated through Brooke Moore, human resources coordinator. Kent Mayer attended the hearing but did not testify. Vonshalay Smith, a representative for Equifax, registered to testify on the issue of timeliness of appeal to the 2017 initial decision, but was unavailable when called, and did not participate.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Department Exhibit D-1 (Employer Appeal letter) and Employer Exhibits 1-8 were admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Has the matter been previously adjudicated, and is that decision final?

Has the claimant requalified for benefits since his 2017 separation with General Mills Operations LLC?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits with an effective date of November 26, 2017 in response to the claimant’s separation from employment October 27, 2017. The employer received the notice of claim and determined it would not protest the receipt

of unemployment insurance benefits. A copy of an initial decision was mailed to the employer's address of record on October 12, 2017. The decision allowed benefits to the claimant and contained a warning that an appeal was due by December 22, 2017. The employer received the decision with the appeal period and did not submit an appeal as it did not intend to dispute the claimant's receipt of unemployment insurance benefits. That decision was not appealed and became final on December 22, 2017.

Then the claimant opened a new claim for benefits with an effective date of September 8, 2019 in response to a temporary layoff from his current employer, John Deere. Since separating with General Mills Operations LLC., the claimant has earned ten times his weekly benefit amount (\$455.00).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the 2017 separation at issue has been adjudicated in a prior claim year and that decision has become final, without change in effect.

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.

The issue presented was resolved in a prior claim year (original claim date November 26, 2017) as the representative's decision dated December 12 2017, (reference 01). The administrative law judge recognizes the employer does not agree but is not allowed to have the matter re-decided simply because the claimant filed a new claim in a different benefit year. The current decision, referring to the prior claim year decision for the same separation date, is affirmed.

For the reasons that follow, the administrative law judge concludes the claimant has since requalified since his 2017 separation with this employer.

Iowa Code section 96.5(1)g provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of this employer shall not be further charged.

DECISION:

The October 1, 2019 (reference 01) initial decision is modified in favor of the employer/appellant. The claimant's 2017 separation at issue has been adjudicated in a prior claim year and that decision has become final, without change in effect. However, the claimant has also since requalified since separation with this employer, and therefore, benefits are allowed, provided the claimant is eligible, and the account of this employer shall not be further charged.

Jennifer L. Beckman
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Decision Dated and Mailed

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