

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**PATTY M MCCONAUGHY
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WAVERLY IA 50677**

**OMEGA CABINETS LTD
1205 PETERS DR
WATERLOO IA 50703**

**Appeal Number: 05A-UI-08776-H2T
OC: 08-14-05 R: 03
Claimant: Appellant (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

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 August 24, 2005, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on September 12, 2005. The claimant did participate. The employer did participate through Amy Victor, Human Resources Representative.

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. A fact-finding decision was issued on August 22, 2005 for a claim with an original claim date of August 15, 2004. A hearing was

held for that claim on September 12, 2005 the decision for which is found at appeal number 05A-UI-08775-H2T. The fact-finding decision was reversed and the claimant was awarded benefits. The appeal decision is controlling here as the claimant's claim for benefits was filed on August 14, 2005.

REASONING AND CONCLUSIONS OF LAW:

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

871 IAC 24.28(7) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(7) 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 the administrative law judge and such decision has become final.

871IAC 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 in this appeal was resolved in a prior claim year as the administrative law judge decision's in appeal number 05A-UI-08775-H2T dated September 20, 2005, reference 07. The current decision referring to the prior claim year decision is modified in favor of the appellant. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The August 24, 2005, reference 02, decision is modified in favor of the appellant. Benefits are allowed, provided the claimant is otherwise eligible.

tkh/kjf