

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

GARY L SHERWOOD
813 N MARKET
OSKALOOSA IA 52577

MC WANE INC
D/B/A CLOW VALVE CO
902 S 2ND ST
OSKALOOSA IA 52577

Appeal Number: 05A-UI-01106-DWT
OC: 01/09/05 R: 03
Claimant: Appellant (1)

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)

Section 96.6-2 – Previously Adjudicated

STATEMENT OF THE CASE:

Gary L. Sherwood (claimant) appealed a representative's January 25, 2005 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of McWane, Inc., doing business as Clow Valve Company (employer), would not be charged because the separation issue had been previously decided in an August 25, 2004 decision. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 16, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. David Cummins appeared on the employer's behalf. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Has the claimant's June 30, 2004 employment separation from the employer been previously adjudicated?

FINDINGS OF FACT:

The claimant established a subsequent claim for unemployment insurance benefits during the week of January 9, 2005. The claimant applied for benefits because his current employer recently laid the claimant off from work.

On August 25, 2004, a representative's decision disqualified the claimant from receiving unemployment insurance benefits as of August 1, 2004. This disqualification remains until the claimant has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

The claimant did not appeal the August 25, 2004 decision until February 1, 2005. This decision has been affirmed. See decision for appeal 05A-UI-01105-DWT. The record does not establish that between June 30, 2004 and January 9, 2005 the claimant earned at least \$3,510.00 in wages.

REASONING AND CONCLUSIONS OF LAW:

The representative's August 25, 2004 decision must be considered the final decision that pertains to the reasons for the claimant's separation from the employer. Iowa Code §96.6-2. This means the claimant is disqualified from receiving unemployment insurance benefits until he has been paid ten times his weekly benefit amount for insured work provided he is otherwise eligible. Iowa Code §96.5-2-a. If the claimant earned \$3,510.00 between June 30, 2004 and January 9, 2005, he could be qualified to receive unemployment insurance benefits. Since the claimant did not participate in the hearing, he must provide proof of his wages to his local Workforce office if he wants to establish he has requalified to receive unemployment insurance benefits. Until the claimant earns ten times his weekly benefit amount, he is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's January 25, 2005 decision (reference 02) is affirmed. A representative's August 25, 2004 decision is the final decision with respect to the reasons for the claimant's employment separation with the employer. The claimant remains disqualified from receiving unemployment insurance benefits until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/tjc