

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GEORGE R DAVIS**  
Claimant

**APPEAL NO. 100-UI-14087-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CVG MANAGEMENT CORP**  
Employer

**OC: 12/20/09**  
**Claimant: Appellant (1)**

Iowa Code § 96.6(4) - Previously Adjudicated Issue

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 2, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 11, 2010. An administrative law judge decision was issued on May 18, 2010, which held that the claimant was not eligible for unemployment insurance benefits. The claimant filed an appeal with the Employment Appeal Board. On August 4, 2010, the Board remanded this case for further development of the record. After due notice, a hearing was scheduled for January 12, 2011. The notice of hearing was sent to the claimant; employer CVG Management Corp; and another employer, Monona Wire. Copies of the administrative file were sent to all three parties so that the parties could respond to the concerns of the Board.

The claimant responded to the hearing notice. When he was called for the hearing, he did not answer his phone. A detailed message was left for the claimant on how to participate in the hearing. He did not call prior to the time the record was closed. Neither CVG Management Corp nor Monona Wire responded to the hearing notice. This decision, based on a review of the entire file, and agency records available to the administrative law judge, will attempt to respond to the Board's request.

**ISSUE:**

Whether the claimant's separation of employment was previously adjudicated.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, makes the following findings of fact:

The claimant filed a claim for unemployment insurance with an original claim date of December 20, 2009. The agency issued two decisions on this claim. The reference 01 decision listed Monona Wire Corp. as the employer. The representative determined that the claimant was eligible for unemployment insurance benefits. This decision was issued on February 2, 2010. Neither party filed an appeal from this decision.

On March 25, 2010, a second decision was filed. This is the reference 04 decision and it listed CVG Management Corp as the employer. This decision stated that the claimant was not eligible to receive unemployment insurance benefits. The claimant appealed that decision and the hearing was held on May 11, 2010, and a decision was filed on May 18, 2010. The administrative law judge ruled that the claimant was not eligible for unemployment insurance benefits. The claimant appealed this decision to the Employment Appeal Board. The Board remanded this case for further development of the record because of the claimant's testimony that he had beat Monona Wire. The Board was concerned that the issue of the claimant's separation of employment had been previously adjudicated.

Neither Monona Wire nor CVG Management Corp is a base period employer. There are wages reported for the fourth quarter of 2009 for Monona Wire. There are no wages reported for CVG Management Corp at any time. There are no records available to the administrative law judge that show a sale of assets from Monona Wire to CVG Corp. The administrative law judge cannot determine how CVG Management Corp was brought into the claim.

It was CVG Management Corp who provided testimony at the earlier hearing and the evidence would suggest that CVG Management Corp was the claimant's employer. The claimant signed a document on October 15, 2009, that referred to the employer as Commercial Vehicle Group/Monona Wire Company. CVG Management Corp and Monona Wire Company have different employer account numbers.

#### **REASONING AND CONCLUSIONS OF LAW:**

A finding of fact or law, judgment, conclusion, or final order made by an employee or representative of Workforce Development, an Administrative Law Judge, or the Employment Appeal Board, is binding upon the parties in connection with proceedings pertaining to the Iowa Employment Security Act. See Iowa Code § 96.6(4).

The issue in this case is whether the decision issued by the representative on February 2, 2010, in favor of the claimant with Monona Wire as the employer is a prior adjudication of the claimant's claim against CVG Management. The evidence available to the administrative law judge upon which to make a decision on that issue is virtually non-existent. There is no testimony on which to rely with the exception of the claimant's allegation that he "beat" Monona Wire. A reasonable inference from the claimant's testimony is that he believed that CVG Management and Monona Wire were one and the same entity.

The claimant's subjective belief about the identity of his employer is insufficient to conclude that the two employers were the same. Everything in the agency records indicates that the claimant's employer was Monona Wire as his wages were reported for Monona Wire, not CVG Management. The decision awarding benefits to the claimant on his claim against Monona Wire is a final decision. He is eligible for benefits on that claim. Ironically, neither Monona Wire nor CVG Management is a base period employer and so neither employer is being charged for the benefits being paid.

The administrative law judge concludes, therefore, that the reference 01 decision is not a prior adjudication of the claimant's claim against CVG Management, given the paucity of evidence on the relationship between CVG Management and Monona Wire.

**DECISION:**

The decision of the representative dated March 25, 2010, reference 04, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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