

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIELLE K BREW**  
Claimant

**APPEAL NO. 14A-UI-01319-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BERTCH CABINET MFG INC**  
Employer

**OC: 08/11/13**  
**Claimant: Appellant (2)**

871 IAC 24.28(7) - Previous Adjudication  
Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated January 24, 2014, reference 04, that held he was discharged for misconduct on August 7, 2013, and benefits are denied. A hearing was held on February 26, 2014. The claimant did not participate. Mitzi Tann, HR representative, participated for the employer.

**ISSUE:**

The issue is whether the separation from employment issue has been previously adjudicated.

**FINDINGS OF FACT:**

The administrative law judge, having heard the witness testimony and having considered the evidence in the record finds that: The claimant separated from employment on August 7, 2013. Claimant filed a benefit claim effective August 11. The department issued a decision that denied claimant benefits for repeated tardiness misconduct from the employer on his August 7 employment separation. Claimant appealed.

Administrative law judge reversed the department decision (#13A-UI-11372-JT) on November 7, 2013 and allowed claimant benefits. The employer did not appeal and this decision has become final. Claimant has not worked any further employment for the employer since the August 7 separation.

Claimant failed to respond to the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The administrative law judge has reviewed the records and files herein and concludes that the issue of the claimant's separation from employment on August 7, 2013 has been heard and adjudicated on his prior claim dated August 11, 2013.

Since the claimant has not become re-employed by the employer and there was no further employer appeal, there is no other issue to resolve in this matter. The department November 7, 2013 ALJ decision has become final and is dispositive on the August 7, 2013 separation issue.

**DECISION:**

The decision of the representative dated January 24, 2014, reference 04, is reversed. The department ALJ decision dated November 7, 2013 is controlling on the claimant's separation from employment on August 7, 2013, and this decision allows the claimant benefits.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs