

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DILIP J APPAVOO
Claimant

APPEAL NO. 12A-UI-01888-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PEPSI-COLA GENERAL BOTTLERS INC
Employer

OC: 01/08/12
Claimant: Respondent (2-R)

871 IAC 24.19(1) – Determination Review of Benefit Rights
871 IAC 24.28(6)a – Prior Adjudication

STATEMENT OF THE CASE:

Employer filed an appeal from the February 23, 2012, reference 02, decision that allowed benefits based upon a decision related to the same separation from employment with the same employer using a different corporate identification. After due notice was issued, a hearing was held by telephone conference call on March 13, 2012. Claimant participated. Employer participated by David Williams, hearing representative, and witness Brandon Whittlesey.

ISSUE:

The issue is whether the separation was adjudicated on the same separation previously.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: The decision issued in this case was adjudicated by a previous decision. (See appeal number 12A-UI-01887-NT).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation issue has been previously adjudicated. (See appeal number 12A-UI-01887-NT).

871 IAC 24.28(6) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(6) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code § 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

871 IAC 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 promptly be given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual potential, disqualifying issues relevant to that 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 is identical to the issue presented in appeal number 12A-UI-01887-NT. The appeal determination for 12A-UI-01887-NT shall apply to the determination in 12A-UI-01888-NT as both decisions refer to the same decision on the same separation from employment.

DECISION:

The February 23, 2012, reference 02, decision is reversed. The prior decision on the same separation is reversed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements. The issue of whether the claimant must repay unemployment insurance benefits that he may have received is remanded to the UIS Division for determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs