

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANK MAZZIOTTA
Claimant

APPEAL NO. 13A-UI-07794-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID-STATES TRANSMISSION PARTS INC
Employer

OC: 05/05/13
Claimant: Respondent (4-R)

Iowa Code Section 96.5(2)(a) – Discharge for Misconduct

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 26, 2013, reference 01, decision that allowed benefits, provided that claimant was otherwise eligible for benefits, and that employer's account could be charged for benefits, based on an agency conclusion that the claimant's eligibility for benefits in connection with the April 3, 2013 separation had already been adjudicated by the State of Illinois. After due notice was issued, a hearing was held on September 11, 2013. Claimant Frank Mazziotta participated. Selena Castle represented the employer. Exhibits 1 through 14 and A were received into evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with the employment that disqualifies the claimant for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Frank Mazziotta established an Iowa combined wage claim for benefits that was effective May 5, 2013. Mr. Mazziotta established the Iowa claim after he exhausted benefits on an Illinois claim for benefits. On the Iowa claim, Mr. Mazziotta has so far received \$8,082.00 in regular benefits for the period of May 5, 2013 through September 21, 2013.

The Iowa combined wage claim includes wages transferred from Illinois and Iowa. Illinois wages that are included in the combined wage claim include \$14,121.19 for the second quarter of 2012 and \$7,124.07 in wages for the third quarter of 2012.

Mr. Mazziotta's combined wage claim also includes \$5,801.00 in wages from Iowa employer Mid-States Transmission Parts, Inc., employer account number 222461.

Mr. Mazziotta's Iowa combined wage claim followed his April 23, 2013 discharge from employment with employer Mid-States Transmission Parts, Inc. Mr. Mazziotta started the employment with Mid-States on February 11 2013.

The State of Illinois has adjudicated Mr. Mazziotta's eligibility for benefits in connection with the April 23, 2013 separation from Mid-States Transmission Parts, Inc. On May 20, 2013, a representative of the Illinois Department of Employment Security entered a decision that, "Since the claimant's action, which resulted in his discharge was not a violation of a reasonable rule or policy of the employing unit, the claimant is not ineligible for benefits from 04/21/2013 in regard to this issue."

The employer filed a timely appeal of the May 20, 2013, Illinois decision allowing benefits. On July 29, 2013 an administrative law judge with the Illinois Department of Employment Security entered a decision that included the following conclusion and decision,

The claimant was discharged for misconduct connected with...work and willfully and deliberately violating a reasonable employer policy. The claimant is disqualified from receiving benefits under the Act.

Decision: The Local Office Determination is SET ASIDE. Pursuant to 820 ILCS 405/602A, the claimant is not eligible for benefits from 04/21/2013.

The Illinois administrative law judge's decision indicated that an appeal from the decision must be filed within 30 days of July 29, 2013. On August 19, 2013, Mr. Mazziotta filed his appeal from the Illinois administrative law judge's decision.

At the time of the September 11, 2013, hearing before the Iowa administrative law judge, Mr. Mazziotta's appeal from the Illinois administrative law judge's decision was still pending.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule provides an overview and explanation of how combined wage claims work, as follows:

Combined wage claim.

24.38(1) *Purpose of plan.* The combined wage program is to enable an unemployed worker with covered employment or wages in more than one state to combine all such employment and wages in one state in order to qualify for benefits or to receive increased benefits.

a. Each state will cooperate with every other state by implementing these uniform combined wage procedures, rules and regulations. This includes the District of Columbia, U.S. Virgin Islands and the Commonwealth of Puerto Rico.

b. The benefit year, base period, qualifying wages, benefit rate, and duration of benefits under the unemployment compensation law of the paying state shall be the benefit year, base period, qualifying wages, benefit rate, and duration of benefits applicable to a combined wage claimant.

c. *The rights of the individual under the combined wage claim plan shall be determined by the paying state after the combining of all wages available from the transferring states; however, in the case in which another state transfers wages to Iowa and Iowa is the paying state, Iowa cannot again adjudicate a separation that has been previously adjudicated by the transferring state. The department shall respect the prior adjudication of the transferring state if the department is aware of the decision and will apply the Iowa*

requalification criteria, unless the individual has requalified pursuant to the liable state's requalification criteria.

d. All other provisions of the unemployment compensation laws and rules of the state agency of the paying state shall be applied to the combined wage claim.

e. The state in which the claim is filed will be the paying state except in those cases in which the individual does not qualify after the transfer has been completed or if the claimant meets the definition of a commuter.

[Emphasis added.]

Iowa Administrative Code section 871 IAC 24.37(1)(d) addresses another aspect of combined wage claims, but repeats the statement that Iowa will respect the prior adjudication of another state that transfers wages to Iowa for use in an Iowa combined wage claim.

871—24.37 (96) Payment of benefits to interstate claimants.

24.37(1) Section 96.20 of the employment security law of Iowa authorizes the department to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both. In conformity with this section, the department of workforce development prescribes:

d. *Benefit rights of interstate claimants.*

(1) If a claimant files a claim against any state, and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(2) For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. *The department will respect the prior adjudication of a liable state if the department is made aware of the decision and will apply the Iowa requalification criteria, unless the claimant has requalified pursuant to the liable state's requalification criteria.*

[Emphasis added.]

Based on the law cited above, the employer has correctly asserted that Iowa, the agent and paying state in connection with the combined wage claim, will not re-adjudicate the separation after Illinois, the "liable" and transferring state, has already adjudicated the issue. For that reason, the current status of the Illinois adjudication controls. The status of the Illinois case is that Mr. Mazziotta is disqualified for benefits by the decision entered by the Illinois administrative law judge on July 29, 2013. Based on that conclusion, Mr. Mazziotta is disqualified for benefits in connection with the Iowa combined wage claim in connection with his April 23, 2013 discharge. Under Iowa Code section 96.5(1)(g), Mr. Mazziotta is disqualified for benefits until he has worked in and been paid for insured work equal to ten times his weekly benefit amount, provided he would then have to meet all other eligibility requirements.

Mr. Mazziotta is overpaid \$8,082.00 on the Iowa Combined wage claim. This matter will be remanded to the Claims Division for determination of whether the claimant is required to repay the benefits and for determination of whether the employer may be relieved of charges in connection benefits paid on the Iowa combined wage claim.

DECISION:

The agency representative's June 26, 2013, reference 01, decision is modified as follows. The claimant's eligibility for benefits in connection with the April 23, 2013 separation has been previously adjudicated by the liable and transferring state, which determined that the claimant was discharged for misconduct in connection with the employment and disqualified for benefits. The State of Iowa will respect the decision of the liable and transferring state. The claimant is disqualified for unemployment benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit allowance, provided he meets all other eligibility requirements.

The claimant is overpaid \$8,082.00 on the Iowa Combined wage claim. This matter is remanded to the Claims Division for determination of whether the claimant is required to repay the benefits and for determination of whether the employer may be relieved of charges in connection benefits paid on the Iowa combined wage claim.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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