

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BENNIE L FOLAND
Claimant

APPEAL NO. 10A-UI-08403-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DENVER FINDLEY & SON INC
Employer

OC: 02/22/09
Claimant: Appellant (1)

Section 96.6(2) – Previous Adjudication

STATEMENT OF THE CASE:

The claimant, Bennie Foland, filed an appeal from a decision dated June 4, 2010, reference 04. The decision found the separation from this employer had previously been adjudicated. After due notice was issued, a hearing was held by telephone conference call on July 29, 2010. The claimant participated on his own behalf. The employer, Denver Findley and Son, Inc. (Findley), participated by Bookkeeper Glenda Warner.

ISSUE:

The issue is whether the claimant's separation from this employment has been previously adjudicated.

FINDINGS OF FACT:

Bennie Foland filed a claim for unemployment benefits with an effective date of February 22, 2009. He was allowed benefits in a decision dated February 9, 2010, and affirmed by an administrative law judge on April 1, 2010. The Employment Appeal Board reversed the judge's decision dated May 21, 2010, and disqualified the claimant from receiving benefits. The claimant has not requested a rehearing or filed an appeal to the district court.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the

claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The decision of the Employment Appeal Board dated May 21, 2010, has become final. The claimant's separation from this employment has already been adjudicated.

DECISION:

The representative's decision of June 4, 2010, reference 04, is affirmed. Bennie Foland's separation from this employment has been previously adjudicated. He is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw