

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNETTE I PLATER
Claimant

APPEAL NO. 10A-UI-09650-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

OC: 05-02-10
Claimant: Respondent (4)

871 IAC 24.19(1) – Determination and Review of Benefit Rights
871 IAC 24.28(6-8) – Prior Adjudication
871 IAC 24.38(1)c – Combined Wage Claim

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 29, 2010, reference 01, decision that allowed benefits but also indicated that the employers account could be charged. After due notice was issued, a hearing was held on August 24, 2010. The claimant did not participate. The employer did participate through Bryan Scott, Team Lead and was represented by Larry Lampel of Barnett Associates. Employer's Exhibit One was entered and received into the record.

ISSUE:

Should Iowa heed the Nebraska decision on the claimant's separation from this employer and should the employer's account be charged.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision at issue has been adjudicated by Nebraska in a prior claim year and that decision dated October 14, 2009 has become final. While the Nebraska decision awarded benefits to the claimant it also indicated that the employer's account would not be charged.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation at issue has been adjudicated by Nebraska in a prior claim year and that decision has become final.

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 section 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 be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the 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.

871 IAC 24.38 (1)c provides: Combined wage claim.

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.

The issue presented was resolved by Nebraska in a representative's decision dated October 14, 2009. The current decision, referring to the Nebraska decision on the prior claim year for the same separation date, is modified in favor of the appellant. Benefits are allowed to the claimant and the account of the employer shall not be charged.

DECISION:

The June 29, 2010, reference 01, decision is modified in favor of the appellant. Benefits are allowed for the claimant and the account of the employer shall not be charged. The prior Nebraska decision on the separation remains in effect.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs