

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICKI L MAHER
Claimant

APPEAL NO. 11A-UI-05680-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S GENERAL STORES
Employer

OC: 11/07/10
Claimant: Appellant (4-R)

Section 96.6(4) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Vicki Maher filed a timely appeal from the April 21, 2011, reference 02, decision that disqualified her for benefits in connection with her May 2010 separation from Casey's based on an agency conclusion that a decision on the separation had been made on a prior claim and remained in effect. After due notice was issued, a hearing was held by telephone conference call on June 6, 2011. Ms. Maher participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. The hearing in this matter was consolidated with the hearing in Appeal Number 11A-EUCU-00441-JTT. Department Exhibits D-1 through D-3 were received into evidence.

ISSUE:

Whether a decision concerning Ms. Maher's May 2010 separation from Casey's was made on a prior claim and continues in effect.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Maher separated from Casey's on May 22, 2010. On June 24, 2010, Workforce Development entered a reference 01 decision that disqualified Ms. Maher for benefits *based on wages earned from the employment with Casey's* until she had worked in and been paid wages for insured work equal to ten times her weekly benefit amount. But, the decision also said Ms. Maher was eligible for benefits based on base period wages from employment *other than Casey's*, provided she met all other eligibility requirements. Ms. Maher received the decision in a timely manner, did not take steps to file a timely appeal from it, and the decision became a final agency decision. Ms. Maher did indeed receive unemployment insurance benefits after her separation from Casey's, but did not receive benefits *based on wages earned from the Casey's employment*.

Ms. Maher has not had any additional employment since separating from Casey's in May 2010.

Ms. Maher subsequently established a new "original claim" for benefits in connection with the new benefit year that started November 7, 2010. On April 20, 2011, a Workforce Development

representative entered a reference 01 decision that allowed benefits in the new claim year, but relieved Casey's of charges for benefits. The decision indicated on its face that a decision regarding the May 22, 2010 separation had been made on a prior claim and that the decision had relieved the employer of charges. On the very next day, April 21, 2011, a Workforce Development representative entered a reference 02 decision that amended the reference 01 decision entered on April 20, 2011. The amended decision fully denied benefits in connection with the May 2010 separation from Casey's based on an agency conclusion that a decision on the separation had been made on a prior claim and remained in effect. The amended decision made no reference to the part-time nature of the Casey's employment or to the special treatment of part-time quits.

REASONING AND CONCLUSIONS OF LAW:

Unless appealed in a timely manner and reversed on appeal, a finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of Iowa Workforce Development, administrative law judge, or the employment appeal board, is binding upon the parties in proceedings brought under this chapter. See Iowa Code section 96.6(3) and (4).

The June 24, 2010, reference 01, decision entered in connection with the claim year that started November 8, 2009, did indeed become a final agency decision that binds Ms. Maher and the employer. The decision continued to be binding on the parties even after the start of the new claim year that began for Ms. Maher on November 7, 2010. To this limited extent, the reference 02 decision entered by the Claims Representative on April 21, 2011 got it right. But, only that far.

The prior decision that became binding on the parties concerned a voluntary quit from part-time employment without good cause attributable to the employer.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits, may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

This was an important aspect of the earlier, June 24, 2010, reference 01 decision, that the April 21, 2011, reference 02, decision left out. Though there was a prior adjudication of the separation, and though it continued to be binding upon the parties, the prior adjudication was a less-than-full disqualification for benefits. Because Ms. Maher has had no further employment since separating from Casey's, she continues to be disqualified for benefits *based on wages earned through the employment at Casey's*. But, Ms. Maher would remain otherwise eligible for reduced benefits in the new claim year, based on base period wages earned through employment *other than Casey's*, provided she has sufficient wage credits and meets all other eligibility requirements. This matter will be remanded to the Claims Division for determination of Ms. Maher's eligibility for reduced benefits in the new claim year.

The remand to the Claims Division should also address whether Ms. Maher has been available for work since the beginning of the new claim year.

DECISION:

The Agency representative's April 21, 2011, reference 02, is modified as follows. A decision on the May 22, 2010 separation was made on a prior claim and remains in effect. The claimant continues to be disqualified for benefits *based on wages earned through the employment at Casey's* until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The claimant is eligible for reduced benefits in the new claim year, based on base period wages earned through employment *other than Casey's*, provided she has sufficient wage credits and meets all other eligibility requirements.

This matter is remanded to the Claims Division for determination of the claimant's eligibility for reduced benefits in the new claim year. The remand to the Claims Division should also address whether the claimant has been available for work since the beginning of the new claim year.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw