

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PETER J SCHUELLER**  
Claimant

**APPEAL 21A-UI-16361-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KINTZLE CONSTRUCTION, INC**  
Employer

**OC: 05/09/21  
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quit  
871 IAC r. 24.28(6) – Previously Adjudicated Issue

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 20, 2021, (reference 01) unemployment insurance decision that found the issue of separation was adjudicated in a prior claim year. The parties were properly notified about the hearing. The parties were properly notified of the hearing. A telephone hearing was held on September 16, 2021, and was consolidated with the hearing for appeal 21A-UI-16360-S2-T. Claimant Peter J. Schueller participated and was represented by attorney Tom Bright. Employer Kintzle Construction, Inc. participated through owner Jeff Kintzle and witness Charlie Vesbach and was represented by attorney Flint Drake. Employer's Exhibits 1 – 3 were admitted. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Whether the issue has been previously adjudicated.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The issue of claimant's separation was resolved in a prior claim year (original claim date May 9, 2020); the unemployment insurance decision dated July 20, 2021 (reference 03) denied claimant benefits based on his discharge for failure to follow instructions. That decision has been reversed on appeal. See 21A-UI-16360-S2-T.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the decision at issue has been adjudicated in a prior claim year.

Iowa Code section 96.6(3) provides:

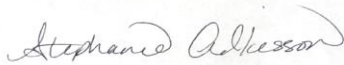
3. Appeals. a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. The notice for a telephone or in-person hearing shall be sent to all the parties at least ten calendar days before the hearing date. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

The separation issue presented was resolved in a prior claim year (original claim date May 9, 2020) in favor of the claimant (Appeal 21A-UI-16360-S2-T). As such, this current decision, referring to the same separation date, is reversed. Benefits are allowed, provided claimant is otherwise eligible.

**DECISION:**

The July 20, 2021, (reference 01) unemployment insurance decision is reversed. The issue was previously adjudicated in 21A-UI-16360-S2-T and claimant was found to be eligible for benefits in that matter. Benefits are allowed, provided the claimant is otherwise eligible.



---

Stephanie Adkisson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

September 22, 2021  
Decision Dated and Mailed

sa/mh