

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN PETERSON**  
Claimant

**APPEAL NO: 11A-UI-10565-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALORICA**  
Employer

**OC: 07/10/11  
Claimant: Appellant (1)**

871 IAC 24.28(6) - Separation Previously Adjudicated

**STATEMENT OF THE CASE:**

Brian Peterson (claimant) appealed an unemployment insurance decision dated August 4, 2011, reference 01, which held that his separation from Alorica (employer) had been adjudicated on a prior claim and that decision remains in effect. Due notice was issued scheduling the matter for a telephone hearing to be held September 20, 2011. Because a decision fully favorable to the parties could be made based on information contained within Iowa Workforce records, a hearing was deemed unnecessary.

**ISSUE:**

The issue is whether the separation in the case herein has been previously adjudicated.

**FINDINGS OF FACT:**

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: On August 1, 2011, a decision was issued concerning the claimant's separation from the employer. The decision, reference 02, had an original claim date of July 11, 2010 and denied benefits to the claimant. The claimant appealed that decision and a decision is being issued simultaneously with this decision. The administrative law judge decision will become final unless an appeal is filed within 15 days from the mailing date of that decision.

**REASONING AND CONCLUSIONS OF LAW:**

The issue to be determined is whether the claimant's separation from this employer has been previously adjudicated.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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 § 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.

There was, in fact, a decision issued on August 1, 2011, concerning the claimant's separation from the employer herein. A finding of fact or law, judgment, conclusion, or final order made by an employee or representative of Workforce Development, an administrative law judge, or the Employment Appeal Board is binding upon the parties in connection with proceedings pertaining to the Iowa Employment Security Act. See Iowa Code § 96.6(4).

In the present case, the claimant appealed that decision and an appeal hearing was scheduled along with this case. An administrative law judge decision is being issued and that decision will become final unless an appeal is filed to the Employment Appeal Board. The claimant does not have a new or alternate right to appeal that separation disqualification and to the extent to which the decision suggested a new right to file for benefits, it was in error.

**DECISION:**

The unemployment insurance decision dated August 4, 2011, reference 01, is affirmed. The claimant's separation from the employer is being adjudicated in Appeal Number 11A-UI-10564-BT and that determination will become final in the absence of a timely appeal.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css