

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARRY HAYES
Claimant

APPEAL NO: 09A-UI-03324-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMCAST SPECTACOR LP ET AL
Employer

OC: 01/04/09
Claimant: Appellant (1)

Iowa Code § 96.5-2-a - Prior Adjudication of a Discharge Separation

STATEMENT OF THE CASE:

Barry Hayes (claimant) appealed an unemployment insurance decision dated February 24, 2009, reference 06, which held that his separation from Comcast Spectacor LP Et Al (employer) was disqualifying. However, the claimant's separation from this employer has been previously adjudicated in Appeal Number 09A-UI-02377-MT and that decision is currently on appeal with the Employment Appeal Board. Due notice was issued scheduling the matter for a telephone hearing to be held March 26, 2009 but no hearing was held.

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: The claimant's separation from the employer herein has been previously adjudicated in Appeal Number 09A-UI-02377-MT. That decision is currently on appeal before the Employment Appeal Board.

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.

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). There was, in fact, a decision issued on the claimant's separation from the employer in Appeal Number 09A-UI-02377-MT. The administrative law judge has no legal authority to re-adjudicate the separation. The February 24, 2009, reference 06, decision did not create a new right for the claimant to re-litigate his disqualification for benefits and to the extent to which the decision suggested a new right to dispute the disqualification, it was in error. The claimant has appealed decision number 09A-UI-02377-MT to the Employment Appeal Board, from which a final decision will be issued.

DECISION:

The unemployment insurance decision dated February 24, 2009, reference 06, is affirmed. The claimant's separation has been previously adjudicated and is currently on appeal with the Employment Appeal Board. The Administrative Law Judge has no jurisdiction to issue a decision on this separation.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs