

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDSAY MALLY
Claimant

APPEAL NO: 11A-UI-05044-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BANNER VALLEY HAULING
Employer

OC: 03/06/11
Claimant: Respondent (1)

871 IAC 24.28(6) - Separation Previously Adjudicated

STATEMENT OF THE CASE:

Banner Valley Hauling (employer) appealed an unemployment insurance decision dated April 6, 2011, reference 01, which held that the separation of Lindsay Mally (claimant) had been adjudicated on a prior claim and that decision remains in effect. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 6, 2011. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Owner Sherry Garnant. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: On April 5, 2010, a decision was issued concerning the claimant's separation from the employer. The decision, reference 01, allowed benefits to the claimant. Iowa Workforce Development has no record of any appeal having been filed on or before April 15, 2010.

REASONING AND CONCLUSIONS OF LAW:

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

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 April 5, 2010, concerning the separation. No appeal was filed and that decision has become final pursuant to Iowa Code § 96.6-2. The administrative law judge has no legal authority to re-adjudicate an otherwise final determination. Therefore, benefits shall be paid in accordance with the decision of April 5, 2010.

DECISION:

The unemployment insurance decision dated April 6, 2011, reference 01, is affirmed. The claimant's separation has been previously adjudicated and the determination has become final in the absence of a timely appeal. Benefits are allowed

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css