

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 06A-UI-00025-MT
OC: 12/18/05 R: 01
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 871-IAC-24.28(6) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated December 29, 2005, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 17, 2006. Claimant participated personally and was represented by Dennis McElwain, Attorney at Law. Employer declined to participate. Exhibit One was admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on November 5, 2004.

Claimant was discharged on November 5, 2004 by employer because of company rules violations.

This matter was adjudicated in a decision dated January 19, 2005, and by Appeal Number 04A-UI-13490-DWT followed by an appeal decision dated March 14, 2005 with Appeal Number 05B-UI-13490. The prior decisions have become final as to the separation issues that occurred on November 5, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether the claim was 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 section 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.

In this matter, the evidence has established that the claim was previously adjudicated by decision of December 10, 2004, reference 01. The bureau is without authority to rehear this matter, as a decision was issued on the merits and has become final. The issue cannot be adjudicated a second time.

DECISION:

The decision of the representative dated December 29, 2005, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

mdm\kjlw