

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANTHONY J BUSS

Claimant

APPEAL 21A-UI-24226-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

OC: 04/11/21

Claimant: Appellant (2)

Iowa Code § 96.6(3) – Appeals
Iowa Admin. Code r. 871-24.28 – Prior Adjudication

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 2, 2021, (reference 03) unemployment insurance decision that found the issue of separation was adjudicated in a prior claim year and that decision remains effect. The parties were properly notified about the hearing. A telephone hearing was held on December 28, 2021, and was consolidated with the hearing for appeal 21A-UI-24225-S2-T. Claimant Anthony J. Buss participated and was represented by attorney Stuart Higgins. Grant Rodgers observed on behalf of claimant. Employer Casey's Marketing Company participated through assistant manager Shannon Bly. Official notice was taken 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: Claimant had filed an original claim for unemployment insurance benefits with an effective date of April 12, 2020. An unemployment insurance benefits decision was issued on July 13, 2021 (reference 02) that found claimant's separation from employment with this employer was disqualifying. Claimant filed an appeal to that separation decision and the decision was reversed, finding that the separation from employment with Casey's Marketing Company was not disqualifying. See Appeal No. 21A-UI-16230-AR-T. Claimant filed another original claim in a subsequent benefit year effective April 11, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows.

Iowa Code section 96.6(3) provides:

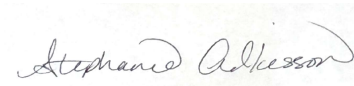
3. Appeals. a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating 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.

No disqualification is imposed 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. Iowa Admin. Code r. 871-24.28(6-8) and Iowa Admin. Code r. 871-24.19(1). Because the separation issue presented was resolved in a prior claim year and was found not to be disqualifying, the current decision, referring to the same separation from employment, is reversed so as to be consistent with the previous claim year. As such, the claimant's separation from employment with this employer was not disqualifying and benefits are allowed, provided the claimant remained otherwise eligible.

DECISION:

The November 2, 2021, (reference 03) unemployment insurance decision is reversed. Claimant's discharge from employment with this employer was not disqualifying and the issue was previously adjudicated in a prior claim year by virtue of the decision in Appeal No. 21A-UI-16230-AR-T.



Stephanie Adkisson
Administrative Law Judge
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Des Moines, Iowa 50319-0209
Fax (515)478-3528

January 25, 2022
Decision Dated and Mailed

sa/kmj