

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFF R HOLST
Claimant

APPEAL NO. 08A-UI-06195-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEPT OF VETERANS AFFAIRS
Employer

**OC: 05/25/08 R: 03
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct - Requalification
871 IAC 24.48 – UCFE Claims
20 CFR 609.14 – Federal Employer - No Relief from Charges

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 27, 2008, reference 01, decision that allowed benefits after a disqualifying separation due to requalification for benefits. After due notice was issued, a telephone conference hearing was held on July 29, 2008. Claimant opted not to participate. Employer participated through Lynne Hanlon. (Administrative law judge's note: This appeal was set up as an unemployment insurance or UI appeal when it should have been categorized as a UCFE or federal employer claim.)

ISSUE:

The issue is whether the federal employer can be relieved of charges.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant has requalified for benefits after a disqualifying separation from the Department of Veterans' Affairs on February 1, 2008.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant has requalified for benefits.

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 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

Since claimant has requalified for benefits since his separation from the federal employer on February 1, 2008, benefits are allowed.

The issue is then whether the federal employer can be relieved of benefit charges.

871 IAC 24.48 provides:

UCFE claims. Benefits under the Federal Employer's Compensation Act.

Unemployment benefits for civilian federal employees shall be determined in accordance with the applicable state law and rules as well as the rules of the United States Department of Labor and published in the Code of Federal Regulations, Chapter 20, Parts 609, 615, 616, 617, and 650. These benefits are payable under the Federal Employer's Compensation Act, 5 U.S.C. 8101-8150, 8191-8193, and are based on wages earned by civilians in covered federal employment.

20 CFR 609.14 provides:

(a) State entitlement. Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages, an amount bearing the same ratio to the total amount of compensation paid to such individual as the amount of the individual's Federal wages in the individual's base period bears to the total amount of the individual's base period wages.

(b) Payment. Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Department, the sum that the Department estimates the State is entitled to receive under the Act and this part for each calendar month. The sum shall be reduced or increased by the amount which the Department finds that its

estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical, sampling, or other method agreed on by the Department and the State agency.

(c) Certification by the Department. The Department, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of the Act and this part.

(d) Use of money. Money paid a State under the Act and this part may be used solely for the purposes for which it is paid. Money so paid which is not used solely for these purposes shall be returned, at the time specified by the Agreement, to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payments to states under the Act and this part may be made.

Therefore, the federal employer cannot be relieved of benefit charges.

DECISION:

The June 27, 2008, reference 01, decision is affirmed. The claimant has requalified for benefits after a disqualifying separation. The federal employer may not be relieved of benefit charges.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw