

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

KURTIS J LUND
2016 – 7TH AVE
COUNCIL BLUFFS IA 51501

BOOKS INC
4655 N COLORADO BLVD
DENVER CO 80216

Appeal Number: 05A-UI-00094-DWT
OC: 11/28/04 R: 01
Claimant: Respondent (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 96.6-4 – Previously Adjudicated

STATEMENT OF THE CASE:

Books, Inc. (employer) appealed a representative's December 22, 2004 decision (reference 03) that concluded Kurtis J. Lund (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged on September 16, 2003, for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 20, 2005. The claimant participated in the hearing. Melinda Howard, the area supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Has the September 16, 2003 separation been previously adjudicated?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of September 14, 2003. The employer was a base period employer during this benefit year. The claimant's base period was April 1, 2002 through March 31, 2003. The claimant worked for the employer until September 16, 2003. Based on a representative's October 3, 2003 decision, the claimant was qualified to receive unemployment insurance benefits as of September 14, 2003, because he had been discharged for nondisqualifying reasons. The employer's account was held subject to charge. The October 3, 2003 decision is considered the final decision. See decision for appeal 05A-UI-00095-DWT.

The claimant established a subsequent benefit year during the week of November 28, 2004. His base period for this claim is July 1, 2003 through June 30, 2004. The claimant received wages from the employer during some of these months. This makes the employer a base period in the claimant's second benefit year.

REASONING AND CONCLUSIONS OF LAW:

A finding of fact, judgment, conclusion, or final order made by a representative of the Department, administrative law judge, or employment appeal board is binding upon the parties to proceedings brought under this chapter. Iowa Code §96.6-4.

The employer did not contest the receipt of benefits and charges to its account during the claimant's first benefit year, September 14, 2003 through September 11, 2004. The claimant's eligibility to receive benefits and whether the employer's account is subject to charge is based on the reasons for the claimant's September 16, 2003 employment separation. To exempt an employer's account from charge, the reasons for the claimant's September 16, 2003 separation would have to amount to disqualifying reasons. Iowa law provides that an employer's account is not subject to charge if the claimant either voluntarily quits employment without good cause attributable to the employer or if the claimant was discharged for work-connected misconduct. Iowa Code §96.7-2-a. Based on the representative's October 3, 2003 decision, a final decision, the employer's account is subject to charge because the claimant was discharged for nondisqualifying reasons.

DECISION:

The representative's December 22, 2004 decision (reference 03) is affirmed. The claimant's September 16, 2003 employment separation was previously adjudicated in an October 3, 2003 decision. The October 3, 2003 decision is a final decision. Therefore, the September 16, 2003 separation cannot be adjudicated again. The employer's account is subject to charge during the claimant's second benefit year because the claimant received wage credits from the employer after July 1, 2003.

dlw/sc