

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY P PAVELKA
Claimant

APPEAL 21A-UI-10111-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREYSTONE MANUFACTURING LLC
EMPLOYER

OC: 03/21/21
Claimant: Respondent (1R)

Iowa Code § 96.6(3) – Appeals
Iowa Admin. Code r. 871-24.19(1) – Determination and Review of Benefit Rights
Iowa Admin. Code r. 871-24.28 – Previous Adjudication

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the March 31, 2021 (reference 01) unemployment insurance decision that allowed benefits to the claimant following a separation from employment on March 23, 2020. After due notice was issued, a telephone hearing was held on June 18, 2021. The claimant participated personally. The employer participated through witness Britt Rogers. The parties both waived due notice of the issue of previous adjudication pursuant to Iowa Code § 96.6(3) and Iowa Admin. Code r. 871-24.28. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was the separation adjudicated in a prior claim year?
Was the issue adjudicated in a prior representative's decision?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant filed an original claim for unemployment insurance benefits with an effective date of March 15, 2020. On July 15, 2020, a fact-finding interview was conducted with both the claimant and employer present and the issue of the claimant's separation from employment was reviewed. An unemployment insurance benefits decision was issued on July 23, 2020 (reference 01) that found the claimant's separation from employment with this employer occurred on March 19, 2020 and was not disqualifying. No appeal was filed from the July 23, 2020 (reference 01) decision.

Claimant filed another original claim in a subsequent benefit year effective March 21, 2021. Claimant's testimony and the wage history establishes that the claimant has not worked and earned insured wages with any other employer after his separation from employment with this employer, Greystone Manufacturing LLC. The issue of whether the claimant has worked and earned sufficient wages to be eligible for benefits in a second benefit year pursuant to Iowa

Code § 96.4(4) shall be remanded to the Benefits Bureau for an initial investigation and determination.

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.

Iowa Admin. Code r. 871-24.19(1) provides:

Determination and review of benefit rights.

Claims for benefits shall be promptly determined by the department on the basis of such facts as it may obtain. Notice of such determination shall be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the determination. Such notice to the claimant shall advise of the weekly benefit amount, duration of benefits, wage records, other data pertinent to benefit rights, and if disqualified, the time of and reason for such disqualification. If a claimant is ineligible, such claimant shall be advised of such ineligibility and the reason therefor. Each notice of benefit determination which the department is required to furnish to the claimant shall, in addition to stating the decision and its reasons, include a notice specifying the claimant's appeal rights. The notice of appeal rights shall state clearly the place and manner of taking an appeal from the determination and the period within which an appeal may be taken. Unless the claimant or any such other party entitled to notice, within ten days after such notification was mailed to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final.

Iowa Admin. Code r. 871-24.28(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.

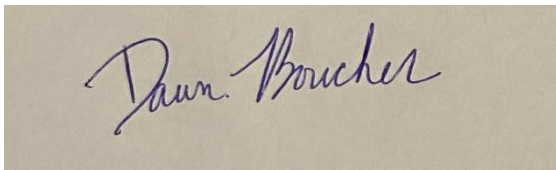
No disqualification is imposed if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final. Iowa Admin. Code r. 871-24.28(6-8) and Iowa Admin. Code r. 871-24.19(1). Because the separation issue presented was resolved in a prior claim year, the current decision, referring to the same separation from employment, is affirmed.

DECISION:

The March 31, 2021 (reference 01) decision is affirmed. The 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 July 23, 2020 (reference 01) decision.

REMAND:

Whether the claimant has worked and earned sufficient wages to be eligible for benefits in a second benefit year pursuant to Iowa Code § 96.4(4) is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

July 1, 2021
Decision Dated and Mailed

db/mh