

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH R LEHMAN
Claimant

APPEAL NO. 10A-UI-03563-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

**Original Claim: 01/10/10
Claimant: Appellant (4)**

Section 96.5(1)(g) – Requalification for Benefits
Section 96.6 – Aggrieved Party Required

STATEMENT OF THE CASE:

Kenneth Lehman filed a timely appeal from the February 23, 2010, reference 01, decision that denied benefits in connection with a May 9, 2009 voluntary quit. After due notice was issued, a hearing was set for April 21, 2010. On April 2, 2010, Mr. Lehman contacted the appeal section and questioned whether a hearing was necessary in light of the wages he earned from insured work after the separation. After reviewing the Agency's administrative file, the administrative law judge concludes a hearing is not necessary. The administrative law judge enters the following decision based on the contents of the agency's administrative records concerning the claimant and the applicable law.

ISSUE:

Whether the claimant requalified for benefits after his May 9, 2009 separation from Hy-Vee, Inc., and prior to establishing the claim for unemployment insurance benefits that was effective January 10, 2010.

Whether the claimant continues to be an aggrieved party under Iowa code section 96.6 in connection with the February 23, 2010, reference 01 decision.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Kenneth Lehman separated from his employment at Hy-Vee, Inc., on May 9, 2009. Mr. Lehman established a claim for unemployment insurance benefits that was effective January 10, 2010. Iowa Workforce Development calculated Mr. Lehman's weekly benefit amount to be \$95.00. After Mr. Lehman's separation from Hy-Vee Inc. and before the effective date of his claim for benefits, Mr. Lehman earned more than 10 times his weekly benefit amount from insured work with employer QSR Iowa, Inc., doing business as Taco Bell.

On February 23, 2010, a Workforce Development representative entered a reference 01 decision that denied benefits in connection with Mr. Lehman's May 9, 2009 separation from Hy-Vee, Inc. On March 2, 2010, Mr. Lehman filed his appeal from that decision. On March 17,

2010, a Workforce Development representative entered a reference 04 decision that relieved Hy-Vee, Inc., of liability for benefits paid to Mr. Lehman and allowed benefits, provided Mr. Lehman met all other eligibility requirements. The basis for the decision was Mr. Lehman's requalification for benefits under Iowa Code section 96.5(1)(g).

REASONING AND CONCLUSIONS OF LAW:

A person who separates from employment for a reason that would disqualify him for unemployment insurance benefits may requalify for benefits by earning ten times his weekly benefit amount from insured work after the separation. See Iowa Code section 96.5(1)(g) and 96.5(2). Mr. Lehman has requalified for benefits by earning ten his weekly benefit amount from insured work at Taco Bell after his May 9, 2010 separation from Hy-Vee and prior to establishing his claim for unemployment insurance benefits on January 10, 2010. Mr. Lehman is eligible for benefits, provided he is otherwise eligible. The employer's account will not be charged for benefits paid to Mr. Lehman.

The appeal rights and procedures set forth at Iowa Code section 96.6 presuppose and require the existence of an aggrieved party. With the entry of the March 17, 2010, reference 04 decision that both relieved the employer of liability and allowed benefits, provided Mr. Lehman was otherwise eligible, Mr. Lehman is no longer an aggrieved party, because he has received the fullest remedy available from the February 23, 2010, reference 01 decision.

DECISION:

The Agency representative's February 23, 2010, reference 01, is modified as follows. The claimant requalified for benefits and is eligible for benefits effective January 10, 2010, provided he is otherwise eligible. The employer's account will not be charged.

The Agency need take no further action in light of this decision, because the Claims Division has already reversed its own decision by entering the March 17, 2010, reference 04 decision.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw