

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

RODOLFO M TORRES MADRID

Claimant,

and

SWIFT PORK COMPANY

Employer.

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HEARING NUMBER: 14B-UI-01984

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-A, 96.3-7

DECISION

The Claimant appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

In this unusual case, we reverse the Administrative Law Judge because of a prior adjudication on this separation issue in a prior claim year. In case 12A-UI-14749 (<http://decisions.iowaworkforce.org/ui/2012/14749.M.pdf>), Administrative Law Judge Morman found that the Claimant was not disqualified from benefits based on his separation from Swift on November 17, 2014. The decision in case 12A-UI-14749 was issued on January 19, 2013 and concerning the 11/18/12 claim year, and is a final agency decision. It was not appealed to the Board. When the Claimant initiated a subsequent claim year, an error was made by Workforce and this prior adjudication was not detected. Workforce has since issued a decision on May 12, 2014 voiding the claims decision which was the basis of the appeal in the case at bar (14A-UI-01984). The reasoning for this May 12, 2014 decision was that the separation at issue had been previously adjudicated in the 11/18/12 claim year. The agencies have no record of an appeal to the Board from that May 12, 2014 decision.

As a result of this analysis, we reverse the Administrative Law Judge's disqualification of the Claimant based on his separation from this Employer because this very issue had been adjudicated after opportunity for a hearing, in case 12A-UI-14749.

We note that the Claimant was found ineligible to collect benefits by a decision issued March 6, 2014 because he failed to earn \$250 in covered wages since the beginning of the 11/18/12 claim year. Our information to date is that the Claimant has still not reported such earnings. Naturally, he will remain ineligible until he does earn, and report, such earnings.

DECISION:

The administrative law judge's decision dated March 24, 2014 is reversed. The Employment Appeal Board concludes that the claimant is not disqualified based on his separation from Swift in 2012 because that issue had been previously adjudicated.

Kim D. Schmett

Cloyd (Robby) Robinson

RRA/fnv