

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

MICHAEL K SMITH
713 S MADISON AVE
OTTUMWA IA 52501

DEARBORN ROOFING INC
BECKER ROOFING COMPANY
327 CHURCH ST
OTTUMWA IA 52501

Appeal Number: 06A-UI-00161-AT
OC: 11-27-05 R: 03
Claimant: Appellant (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)

871 IAC 24.28(6) – Prior Adjudication

STATEMENT OF THE CASE:

Michael K. Smith filed a timely appeal from an unemployment insurance decision dated December 7, 2005, reference 02, which ruled that the unemployment insurance consequences of his separation from employment with Becker Roofing Company had been adjudicated in his benefit year, which had begun on November 28, 2004. Due notice was issued for telephone hearing to be held January 23, 2006. Mr. Smith did not respond to the hearing notice. Under the circumstances, it was unnecessary to take testimony from the employer's witness. The administrative law judge takes official notice of Agency decisions record and claim records.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: On May 19, 2005, Iowa Workforce Development issued a fact-finding decision disqualifying Michael K. Smith for unemployment insurance benefits following his separation from employment with Becker Roofing Company. Mr. Smith did not file an appeal from that decision until December 10, 2005. This administrative law judge affirmed the decision on the basis of an untimely appeal in Decision 06A-UI-00160-AT.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has jurisdiction to rule on the merits of Mr. Smith's separation from employment with Becker Roofing Company. He does not.

A provision of the Iowa Administrative Code found at 871 IAC 24.28(6) provides that if the Agency has already made a determination of the unemployment insurance consequences of a given separation from employment, the Agency will not revisit that separation in a subsequent benefit year. The evidence in this record establishes that the Agency considered the consequences of Mr. Smith's separation from employment with Becker Roofing Company during his benefit year which began November 28, 2004. Having done so, it cannot do so again during his benefit year beginning November 27, 2005.

DECISION:

The unemployment insurance decision dated December 7, 2005, reference 02, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

kjw/kjw