

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CORY J SAWVEL
Claimant

HAYES BUSINESS GROUP LLC
Employer

APPEAL 17A-UI-04938-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/16/17
Claimant: Appellant (2)

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(6-8) – Prior Adjudication
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Cory J. Sawvel (claimant) filed an appeal from the May 3, 2017, reference 01, unemployment insurance decision that denied benefits based upon the determination Hayes Business Group, LLC (employer) discharged him for violation of a known company rule. The parties were properly notified about the hearing. A telephone hearing was held on May 26, 2017. The claimant participated. The employer participated through Human Resources Manager Barbara Meeker. Claimant's Exhibit A was received. Employer's Exhibit 1 was received. Department's Exhibits D1 and D2 were received.

ISSUE:

Was the separation adjudicated in a prior claim year?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an original claim for benefits January 24, 2016. Following his discharge with the employer on November 10, 2016, he reopened his claim for benefits and a fact-finding interview on that separation was held. On November 30, 2016, an unemployment insurance decision was issued that allowed benefits as the employer had not shown the claimant was discharged for willful or deliberate misconduct. The employer appealed the decision.

An appeal hearing with an administrative law judge was held on December 19, 2016. On December 20, 2016, the administrative law judge issued a decision affirming the unemployment insurance decision and allowing the claimant to receive benefits. The decision also contained a warning that it would become final unless an appeal was filed to the Employment Appeal Board within 15 days. The employer did not file an appeal. The decision has become final agency action.

On April 16, 2017, the claimant filed another original claim for benefits as his previous benefit year expired. The employer received a notice claim of which it protested stating the claimant was discharged on November 10, 2016. A fact-finding interview was again held on the November 10, 2016 separation. On May 3, 2017, another unemployment insurance decision was issued on that same separation which denied benefits. The claimant has not worked for the employer since November 10, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation at issue has been adjudicated in a prior claim year. Benefits are allowed, provided the claimant is otherwise eligible.

Iowa Code §96.6(3)(a) provides, in relevant part:

a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reason opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. ... The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reason 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.

Iowa Admin. Code r. 871-24.28(7) 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 the administrative law judge and that decision has become final.

The administrative law judge's decision regarding the November 10, 2016 separation from the prior claim year which was issued on December 20, 2016 has become final agency action. As the current unemployment insurance decision regarding the same separation is in conflict with the prior claim year decision, the current decision is reversed. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The May 3, 2017, reference 01, unemployment insurance decision is reversed. The prior decision on the separation remains in effect and benefits are allowed, provided the claimant is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn