

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

TRACEE A HAYES
6317 WESTERN AVE
DAVENPORT IA 52806

HOTEL MANAGEMENT SYSTEMS
4706 E WASHINGTON AVE
MADISON WI 53704

Appeal Number: 05A-UI-08210-CT
OC: 06/26/05 R: 04
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)

Section 96.6(3) – Finality of Decisions

STATEMENT OF THE CASE:

Tracee Hayes filed an appeal from a representative's decision dated July 27, 2005, reference 01, which held that a decision concerning her separation from Hotel Management Systems (HMS) had been made on a prior claim and remained in effect. After due notice was issued, a hearing was held by telephone on August 25, 2005. Ms. Hayes participated personally. The employer participated by Larry Coffell, Regional Supervisor.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Hayes filed a claim for job insurance benefits

effective June 27, 2004. She filed an additional claim effective April 10, 2005, after her March 18, 2005 separation from HMS. On April 28, 2005, Workforce Development issued a decision denying benefits on a finding that Ms. Hayes had been discharged for excessive unexcused absenteeism. Ms. Hayes appealed the determination and a hearing was scheduled for May 31, 2005. Ms. Hayes did not follow the instructions on the notice of hearing and, therefore, did not contact the Appeals Section until one hour after the scheduled time of the hearing. As such, she was not allowed to participate.

On June 6, 2005, the administrative law judge issued a decision affirming the disqualification from benefits. The decision advised Ms. Hayes that she had 15 days in which to file an appeal with the Employment Appeal Board. On July 25, 2005, the Employment Appeal Board issued a decision holding that Ms. Hayes' appeal to them was untimely. Ms. Hayes filed her current claim for job insurance benefits effective June 26, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether the administrative law judge has jurisdiction to rule on Ms. Hayes' separation from HMS. It is clear that the matter has already been adjudicated. The disqualification issued on April 28, 2005 has been the subject of both an administrative law judge and Employment Appeal Board decision. The issue arose again after Ms. Hayes filed a new claim for benefits only because HMS continues to be a base period employer. This is not a basis for re-litigating the matter of her separation. Ms. Hayes would be entitled to again address her separation from HMS only if the Employment Appeal Board grants her a new hearing based on her request for rehearing filed with them.

For the reasons stated herein, the administrative law judge concludes that there is no jurisdiction to issue a new decision concerning Ms. Hayes' separation from HMS.

DECISION:

The representative's decision dated July 27, 2005, reference 01, is hereby affirmed. The matter of Ms. Hayes' separation from HMS was adjudicated on a prior claim and remains in effect. Benefits are withheld until such time as Ms. Hayes has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefits amount, provided she satisfies all other conditions of eligibility.

cfc/pjs