

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CODY RADKE
Claimant

APPEAL NO. 10A-UI-07161-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KUM & GO LC
Employer

**Original Claim: 03/28/10
Claimant: Respondent (1)**

Iowa Code § 96.5-2-a - Prior Adjudication of a Discharge Separation

STATEMENT OF THE CASE:

Kum & Go, LC (employer) appealed an unemployment insurance decision dated May 3, 2010, reference 01, which held that the separation of Cody Radke (claimant) had been adjudicated on a prior claim and that decision remains in effect. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled held on July 6, 2010. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted and, therefore, did not participate. The employer participated through Kristin Evans, General Manager, and Randy Crocker, Employer Representative. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the separation in the case herein has been previously adjudicated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: On April 17, 2009, a decision was issued concerning the claimant's separation from the employer. The decision, reference 01, allowed benefits to the claimant. Iowa Workforce Development has no record of any appeal having been filed on or before April 27, 2009.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant's separation from this employer has been previously adjudicated.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

A finding of fact or law, judgment, conclusion, or final order made by an employee or representative of Workforce Development, an administrative law judge, or the Employment Appeal Board, is binding upon the parties in connection with proceedings pertaining to the Iowa Employment Security Act. See Iowa Code § 96.6(4). A decision of a Workforce Development claims representative becomes a final Agency decision if there is no appeal from the decision filed within ten days of the mailing date of the decision. See Iowa Code § 96.6(2).

There was, in fact, a decision issued on April 17, 2009, concerning the separation. No appeal was filed and that decision has become final pursuant to Iowa Code § 96.6-2. The administrative law judge has no legal authority to re-adjudicate an otherwise final determination. Therefore, benefits shall be paid in accordance with the decision of April 17, 2009.

DECISION:

The unemployment insurance decision dated May 3, 2010, reference 01, is affirmed. The claimant's separation has been previously adjudicated and the determination has become final in the absence of a timely appeal. Benefits are allowed

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw