

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN C GARRETT
Claimant

APPEAL NO. 15A-UI-06746-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES – BURLINGTON INC
Employer

OC: 05/24/15
Claimant: Appellant (1)

Iowa Code Section 96.6(4) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Kevin Garrett filed a timely appeal from the June 10, 2015, reference 02, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that his May 21, 2015 separation had been adjudication in connection with a prior claim year and that decision continued in effect. After due notice was issued, a hearing was held on July 20, 2015. The hearing in this matter was consolidated with the hearing in Appeal Number 15A-UI-06745-JTT. Mr. Garrett participated. Jenny McNeil represented the employer. Exhibits One and Two were received into evidence.

ISSUE:

Whether the separation has been adjudicated on a prior claim and whether that adjudication continued in effect.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Temp Associates – Burlington, Inc., is a temporary employment agency. Kevin Garrett commenced his employment with Temp Associates in April 2015. On April 6, 2015, Jan Adkins, a manager at Temp Associates, placed Mr. Garrett in a full-time temporary work assignment at DMC Regional Solid Waste Company. Temp Associates was Mr. Garrett's employer and DMC Regional Solid Waste Company was not Mr. Garrett's employer. Rather DMC was Temp Associate's customer. Mr. Garrett's work hours in the assignment were 8:00 a.m. to 4:00 p.m., Monday through Friday. Mr. Garrett's supervisor in the assignment was Larry Sampson of DMC.

Mr. Garrett last performed work in the assignment on Thursday, May 21, 2015. On or before that date, Mr. Sampson had told Mr. Garrett that the assignment would be ended if Mr. Garrett was again absent. Mr. Garrett had previously been absent from the assignment. Mr. Garrett was then absent for consecutive shifts on May 22, 26 and 27, 2015, without notifying Temp Associates or DMC. The employer's attendance policy required that Mr. Garrett notify both company prior to the start of his shift if he needed to be absent. The requirement was set forth in the work rules provided to Mr. Garrett at the start of the employment. After Mr. Garrett

worked on May 21, 2015, he did not make further contact with Temp Associates or DMC. Neither Temp Associates nor DMC had ever notified Mr. Garrett that he was discharged from the assignment or from the employment.

Mr. Garrett established an original claim for benefits that was effective May 24, 2015. On June 8, 2015, a claims deputy entered the reference 05 decision in connection with that original claim. The reference 05 decision disqualified Mr. Garrett for benefits and relieved the employer of liability for benefits in connection with a May 21, 2015 separation. Mr. Garrett has not performed additional work for the employer since that time. The June 8, 2015, reference 05, disqualification decision entered in connection with the prior claim year has been affirmed in Appeal Number 15A-UI-06745-JTT.

REASONING AND CONCLUSIONS OF LAW:

Unless appealed in a timely manner and reversed on appeal, a finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of Iowa Workforce Development, administrative law judge, or the employment appeal board, is binding upon the parties in proceedings brought under this chapter. See Iowa Code section 96.6(3) and (4).

Mr. Garrett's May 21, 2015 separation from the employer was adjudicated in connection with the May 25, 2015 original claim date through the June 8, 2015, reference 05, decision that disqualified him for benefits and that relieved the employer of liability for benefits. The reference 05 decision was affirmed in Appeal Number 15A-UI-06745-JTT and continues to be binding upon the parties in the new claim year that began June 11, 2015.

DECISION:

The June 10, 2015, reference 02, decision is affirmed. The claimant's May 21, 2015 separation from the employer was previously adjudicated during the prior claim year and that prior adjudication remains binding on the parties. The claimant remains disqualified for benefits, and the employer account remains relieved of charges for benefits, based on the May 21, 2015 separation.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs