

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MOUSA MOUSA MAKKY
Claimant

HY VEE INC
Employer

APPEAL 21A-UI-19524-CS-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit
871 IAC 24.28(6-8) – Prior Adjudication

STATEMENT OF THE CASE:

On September 2, 2021, the claimant/appellant filed an appeal from the August 31, 2021, (reference 03) unemployment insurance decision that disallowed benefits based on a decision being made on a prior claim that denied benefits and that decision remains in effect. The parties were properly notified about the hearing. A telephone hearing was held on October 26, 2021. Claimant participated at the hearing. Employer participated through Hearing Representative, Barbara Buss. The employer called as a witness District Store Director, Kerry Sherlock. Administrative notice was taken of claimant's unemployment insurance benefits records.

ISSUES:

Has the issue been previously adjudicated?

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The issue presented was resolved in a prior decision dated May 25, 2021, ref. 02. The claimant appealed the decision in appeal 21A-UI-13060-SN-T. In that decision the administrative law judge found the claimant had voluntarily quit without good cause attributable to the employer. This decision was affirmed with the Employment Appeal Board on October 20, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the decision at issue has been adjudicated and that decision has become final.

Iowa Admin. Code r. 871-24.28(6) 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 a representative of the department and such decision has become final.

871IAC 24.19(1) provides:

Claims for benefits shall be promptly determined by the department on the basis of such facts as it may obtain. Notice of such determination shall be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the determination. . . . The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken. Unless the claimant or any other such party entitled to notice, within ten days after such notification was mailed to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final.

The issue presented was previously resolved in a claim year (original claim date March 15, 2020) as the representative's decision dated May 25, 2021, reference 02. The current decision referring to the prior claim decision is affirmed. The separation has been previously adjudicated in Appeal No. 21A-UI-13060-SN-T and the Employment Appeal Board has affirmed the decision.

DECISION:

The August 31, 2021, reference 03, decision is affirmed. The prior decision on the separation remains in effect.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

November 05, 2021
Decision Dated and Mailed

cs/ol

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits but who were unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa is the week ending June 12, 2021. You may be eligible for benefits incurred prior to June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.