

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

THOMAS A TINKHAM
Claimant

EMPLOYMENT CONNECTIONS INC
Employer

APPEAL 16A-UI-10680-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/24/16
Claimant: Appellant (2)

Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Code Ch. 96 – Iowa Employment Security Act
871 IAC 24.19(1) – Determination and Review of Benefit Rights
871 IAC 24.28(6-8) – Prior Adjudication
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 24, 2016, (reference 02) unemployment insurance decision that denied benefits based upon separation. A telephone hearing was scheduled but not conducted on October 14, 2016. A hearing decision was issued, dismissing the claimant's appeal for failure to appear. The claimant timely requested reopening of the record due to non-receipt of the notice of hearing until the day of the actual hearing. The request for reopening was granted by the administrative law judge. A second telephone hearing was scheduled for November 2, 2016, and both parties were properly notified about the hearing. The claimant participated personally. The employer participated through Tammy Christenson, corporate accountant. Department exhibit D-1 was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, 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 was previously adjudicated in the claimant's favor.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The separation issue presented was resolved in a prior representative's decision finding the claimant voluntarily quit his employment on May 10, 2016 with this employer, without good cause attributable to the employer, but was eligible because he requalified, and therefore was allowed benefits. (See representative's reference 01 decision, dated August 11, 2016).

An inconsistent (reference 02) representative's decision regarding the same separation was issued on August 24, 2016, which the claimant appealed. This decision referenced another separation/quit from employment with this employer effective July 24, 2016. The undisputed evidence by both parties is that no contact has been made by either party since the identified

May 10, 2016, separation in reference 01, and therefore, there has been no subsequent separation. Neither party was aware of how the July 24, 2016 separation was (incorrectly) identified by the agency.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation at issue has been adjudicated in the same claim year in favor of the claimant and that decision has become final. Accordingly, this decision is reversed.

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 separation issue presented was resolved in the same claim year as the representative's decision dated August 11, 2016 (reference 01). The current decision is inconsistent with the prior decision on the same separation date and is reversed.

DECISION:

The August 24, 2016 (reference 02) decision is reversed since it is inconsistent with the prior decision on the separation, which has become final. Benefits are allowed, provided the claimant is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/pjs