

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JO A HOLTZMAN
Claimant

CRESTVIEW ACRES INC
Employer

APPEAL 21A-UI-19742-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/18/21
Claimant: Appellant (2)

Iowa Code § 96.6(3) – Appeals
Iowa Admin. Code r. 871-24.28 – Prior Adjudication

STATEMENT OF THE CASE:

Claimant filed an appeal from the August 26, 2021 (reference 01) unemployment insurance decision that found the issue of separation was adjudicated in a prior claim year. The parties were properly notified of the hearing. A telephone hearing was held on November 3, 2021. Claimant participated. Employer did not participate. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether the issue has been previously adjudicated.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The issue of claimant's separation from Crestview Acres has not been resolved in a prior benefit year (original claim date April 19, 2020. The unemployment insurance decision dated August 25, 2021 (reference 01) denied claimant benefits for refusing to apply for or accept an offer of suitable work. The August 25, 2021 (reference 01) decision has been modified in claimant's favor on appeal (see appeal 21A-UI-19741-AW-T) finding that claimant did not refuse an offer of suitable work but is not able to work, available for work or earnestly and actively seeking work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the decision at issue has not been adjudicated in a prior claim year.

Iowa Code section 96.6(3) provides:

3. Appeals. a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose

either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. The notice for a telephone or in-person hearing shall be sent to all the parties at least ten calendar days before the hearing date. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

No disqualification is imposed if a decision on the same separation has been made on a prior claim by a representative of the department and such decision has become final. Iowa Admin. Code r. 871-24.28.

Claimant's separation from employer was not resolved in a prior claim year.

DECISION:

The August 26, 2021 (reference 01) unemployment insurance decision is reversed. The issue of separation was not adjudicated in a prior claim year.



Adrienne C. Williamson
Administrative Law Judge
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Iowa Workforce Development
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December 9, 2021
Decision Dated and Mailed

acw/kmj