

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COLIN MOSS**

Claimant

**APPEAL NO. 10A-UI-15774-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FBG SERVICE CORP**

Employer

**OC: 09/26/10**

**Claimant: Appellant (1)**

Iowa Code § 96.5-2-a - Prior Adjudication of a Discharge Separation  
871 IAC 24.38(1)c – Final Adjudication of a Liable State

**STATEMENT OF THE CASE:**

Colin Moss (claimant) appealed an unemployment insurance decision dated October 4, 2010, reference 01, which held that his separation from FBG Service Corporation (employer) had been adjudicated on a prior claim in Nebraska and that decision remains in effect. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 27, 2010. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. The claimant waived formal notice to the issue of whether the separation in this case was previously adjudicated so that it could be addressed in the hearing today. This applicable issue was inadvertently left off the hearing notice. Based on the evidence, the arguments of the party, 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: It should be noted that the disqualification decision was issued on October 4, 2010 and the claimant did not file an appeal until November 15, 2010. The administrative law judge questioned the delay in filing an appeal until it was seen there was an error in the due date. The disqualification decision stated that it becomes final unless an appeal is postmarked by **11/14/10** or received by the Appeals Section by that date. Although the due date was listed inaccurately, the claimant complied with the printed due date and submitted his appeal on the next work day after November 14, 2010, which fell on a Sunday. Consequently, the claimant was given an extra month to appeal his decision and his appeal was timely.

On May 18, 2010, the Nebraska Department of Labor Office of Unemployment Insurance issued a decision denying benefits to the claimant as the result of his discharge from FBG Service Corporation on March 17, 2010. Iowa Workforce Development has no record of any appeal having been filed within 20 dates of the date the decision was issued.

The claimant established a claim for benefits in Iowa during the week of September 26, 2010. The employer is the claimant's most recent employer. Iowa learned about the Nebraska decision and considers this decision final in this matter.

**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.

The law provides that for interstate claimants the Department will respect the prior adjudication of a liable state if the Department is made aware of a decision. 871 IAC 24.37-1(d)(2) and 871 IAC 24.38(1)(c). When the claimant established a claim in Iowa, the Department became aware of the Nebraska adjudicator's determination concerning the claimant's separation with the employer. While the claimant may not agree with the Nebraska decision, the claimant must follow Nebraska's appeal process. Iowa will not re-adjudicate a final decision made by another state. As a result of the Nebraska adjudicator's determination, the claimant is disqualified from receiving benefits as of September 26, 2010. There is no evidence of an appeal, so the decision became final.

**DECISION:**

The unemployment insurance decision dated October 4, 2010, reference 01, is final. The claimant's separation has been previously adjudicated in Nebraska and that determination has become final in the absence of a timely appeal. Benefits are denied.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/kjw