

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

JORDAN D ARCHER

Claimant

and

GOLDEN ENTERPRISES LLC

Employer

HEARING NUMBER: 18BUI-02776

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 24.1-113

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

The Board writes additionally only to explain to the Employer the effect of today's decision.

As background, when someone files a claim for benefits that person's wage history determines the amount of benefits he can collect. The wage history in question is the wages earned by the claimant during a period of time called "the base period." All employers who paid wages during the base period, as well as the most recent employer, are sent notice of the claim. This is because all separations from base period employers are relevant to a claim.

For example, suppose Alice works for Casey's through June of 2016, and is laid off on July 1, 2016. She then goes to work at Hy Vee from July 15 until she is fired for theft in January 2017. She then files for benefits. The agency will need to resolve both the separation from Casey's and from Hy Vee. If Alice is not disqualified from the Casey's layoff, all this means is that the Casey's layoff has no effect on Alice's right to benefits. It does not guarantee her benefits. It only means that the Casey's layoff will not disqualify her. When Alice is disqualified from the Hy Vee termination then she will be denied benefits from the date of the Hy Vee termination until she earns 10 times her benefit amount. All her requalifying earnings would have to be from jobs she started since the January 2017 termination from

Hy Vee.

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As a second example consider Alice again, and make everything the same except say that Casey's fired Alice for theft on July 1, 2016. She subsequently went to work at Hy Vee who laid her off in January 2017. In that case the Hy Vee lay off would not disqualify Alice. Again, this does not mean she would get benefits. We have to resolve the separation from Casey's. Since Casey's fired Alice for theft she *would* be disqualified for the theft from Casey's. She would be disqualified until she had earned 10 times her weekly benefit amount following her July 1, 2016 separation from Casey's. Now Alice did work for Hy Vee *after* Casey's so assuming Alice did requalify through those Hy Vee earning what does this mean? It would mean Alice could collect benefits on her January 2017 claim **but** those benefits would not be charged to Casey's account. Any benefits that would be charged to Casey's account would instead be charged to the state balancing fund.

We hope that we have made clear that all separations occurring in the base period, in addition to the most recent separation, need to be adjudicated.

Applying this approach to this case we ask: who are the base period employers? This is tricky here. Out of state employers do not show up in the wage database. Thus the agency wage records show that the Claimant was paid wages by Golden Enterprises LLC including in the fourth quarter of 2017 and in the first quarter of 2018. The agency claim database shows no wages on this claim for account 143440. Instead it shows wages in the first, second, and third quarters of 2017 all chargeable to account 100018 (out of state). As far as we can tell, this is Harrell's. So it appears that the Claimant worked for Golden during the base period even though currently it is Harrell's that is chargeable on the claim. So we have to address why the Claimant no longer works for Golden Enterprises.

So now turning to the separation we ask: does the Claimant still work for Golden Enterprises? Clearly he does not. Golden Enterprises is no longer paying the Claimant for services rendered. He does not work for Golden Enterprises LLC and this is true even if that entity no longer exists (although we see no certificate of dissolution or the like filed with the Iowa Secretary of State). No matter what happened to Golden Enterprises LLC, the Claimant no longer works for it. So he has been separated from Golden Enterprises, LLC. So we have to know whether that was a disqualifying separation. The Administrative Law Judge found that the business, or some portion thereof, was sold and this is why the Claimant no longer works for Golden Enterprises, LLC. This is not a disqualifying quit, and it is not a discharge for misconduct. No matter what you call such a separation, there is no disqualification for such a separation. Only quits and discharges can possibly be disqualifying under the law. We thus affirm the determination that the separation **from Golden Enterprises** is not disqualifying. We **do not** address whether the separation for Harrell's (i.e. the termination apparently following an accident in Minnesota) was disqualifying. Just like the Administrative Law Judge, we make no legal or factual conclusions regarding the separation from Harrell's.

The Administrative Law Judge remanded the issue of the separation from Harrell's Car Wash Systems of Indiana. Apparently the remand proceedings have not yet taken place. If the fact finding continues to be delayed, we suggest that the representatives of Harrell's could contact Iowa Workforce and make

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appropriate inquiry. Unless and until a Harrell's determination is made, appealed to Administrative Law Judge, and then appealed to us, we do not address that question. The separation from Harrell's is simply not before us at the current time.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

RRA/fnv