

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANA P WENDT
Claimant

APPEAL NO. 11A-UI-14338-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BERGER ENTERPRISES LLC
Employer

OC: 09/26/10
Claimant: Respondent (1)

871 IAC 24.28(6) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated October 31, 2011, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 29, 2011. Claimant participated personally. Employer participated by Crystal Berger, Manager.

ISSUE:

The issue in this matter is whether the claim was previously adjudicated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 23, 2011.

This matter was adjudicated in a decision dated October 28, 2011, reference number 05.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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.

In this matter, the evidence has established that the claim was previously adjudicated by decision of October 28, 2011 reference 05. The bureau is with authority to rehear this matter as a decision was issued on the merits and is pending on appeal as reference 05. The issue cannot be adjudicated a second time in a new benefit year.

DECISION:

The decision of the representative dated October 31, 2010, reference 02, is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements subject to the outcome of reference 05 decision.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css