

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL T HARLAND
Claimant

APPEAL NO. 09A-UI-06366-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS
Employer

**Original Claim: 01/06/08
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.19(1) – Determination and Review of Benefit Rights
871 IAC 24.28(6-8) – Prior Adjudication

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 20, 2009, reference 07, decision that denied benefits based upon a decision in a prior benefit year for the same separation. After due notice was issued, a hearing on the separation issue was held on May 20, 2009. Claimant participated with Tiffany Parbs. Employer participated through Alicia Alonzo.

ISSUE:

The issue is whether the separation was adjudicated in a prior claim year and, if so, whether that decision has become final.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The separation issue presented was resolved in a prior claim year (original claim date January 6, 2008) as the representative's decision dated December 11, 2008, reference 04. Claimant's appeal from that decision has been held to be timely and the disqualification decision was reversed (09A-UI-06365-LT).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation at issue has been adjudicated in a prior claim year and that decision has been reversed. Accordingly, this decision is also reversed.

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 § 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.

871 IAC 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 a prior claim year (original claim date January 6, 2008) as the representative's decision dated December 11, 2008, reference 04. Claimant's appeal from that decision has been held to be timely and the disqualification decision was reversed (09A-UI-06365-LT). The current decision, referring to the prior claim year decision on the same separation date, is reversed.

DECISION:

The April 20, 2009, reference 07, decision is reversed, since the prior decision on the separation has been reversed. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw