

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS BOYER
Claimant

APPEAL NO: 08A-UI-04598-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST FRANCHISE OF IOWA LLC
Employer

OC: 04/27/08 R: 01
Claimant: Respondent (1)

Iowa Code § 96.5-2-a - Prior Adjudication of a Discharge Separation

STATEMENT OF THE CASE:

Midwest Franchise of Iowa, LLC (employer) appealed an unemployment insurance decision dated May 9, 2008, reference 02, which found Thomas Boyer (claimant) eligible for unemployment insurance benefits based on a previous adjudication. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 28, 2008. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Rob Ritter, General Manager. 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 claimant's separation from this employment 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: On April 4, 2007, a decision was issued concerning the claimant's separation from the employer. The decision, reference 01, allowed benefits to the claimant. Iowa Workforce Development has no record of any appeal having been filed on or before April 14, 2007.

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.

There was, in fact, a decision issued on April 4, 2007, concerning the separation. No appeal was filed and that decision has become final pursuant to Iowa Code § 96.6-2. The administrative law judge has no legal authority to re-adjudicate an otherwise final determination. Therefore, benefits shall be paid in accordance with the decision of April 4, 2007.

DECISION:

The unemployment insurance decision dated May 9, 2008, reference 02, is affirmed. The claimant's separation has been previously adjudicated and the determination has become final in the absence of a timely appeal. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw