

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL HUSSEY
Claimant

APPEAL NO: 12A-UI-08197-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BARONCINI LLC
Employer

OC: 05/20/12
Claimant: Appellant (6)

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

STATEMENT OF THE CASE:

Michael Hussey (claimant) appealed an unemployment insurance decision dated June 28, 2012, reference 03, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Baroncini, LLC (employer) on May 20, 2012 without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 31, 2012. The claimant participated in the hearing. The employer participated through owner Gianluca Baroncini and Alicia Hoerschelman, General Manager.

There was a previous decision issued on June 8, 2012, reference 01, which allowed benefits based on a May 3, 2012 separation date when the employer discharged the claimant without evidence of misconduct. The employer appealed the decision and a hearing was scheduled for July 12, 2012. The employer failed to participate and the decision allowing benefits was upheld in Appeal Number 12A-UI-07253-NT. As of today's date, there is no record of an appeal by the employer. After today's hearing was held, the administrative law judge realized the June 28, 2012 decision was issued in error since it involves the same separation of employment.

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 considered all of the evidence in the record, finds that: On June 8, 2012, a decision was issued concerning the claimant's separation from the employer. The decision, reference 01, allowed benefits to the claimant. The employer appealed the decision but failed to participate in the appeal hearing and the decision was affirmed. The employer testified his telephone was broken on the day of the hearing and he forgot about it since his calendar is on his telephone. As of today's date, Iowa Workforce Development has no record of an appeal although the employer indicated an appeal has been filed.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant's separation from this employer has been previously adjudicated. There was, in fact, a decision issued on June 8, 2012, concerning the separation which allowed benefits and an administrative law judge upheld that decision on July 12, 2012 in Appeal Number 12A-UI-07253-NT. A finding of fact or law, judgment, conclusion, or final order made by an employee or representative of Workforce Development, an administrative law judge, or the Employment Appeal Board is binding upon the parties in connection with proceedings pertaining to the Iowa Employment Security Act. See Iowa Code § 96.6(4).

In the present case, the employer's liability for benefits has been adjudicated. The June 28, 2012, reference 03, decision did not create a new right for the employer to re-litigate its liability for benefits. The decision was issued in error and is hereby dismissed.

DECISION:

The unemployment insurance decision dated June 28, 2012, reference 03, is dismissed. The claimant's separation has been previously adjudicated and the parties are bound by that adjudication.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css