

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BEVERLY SCHRAMM**  
Claimant

**APPEAL NO: 08A-UICFE-00016-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**US POSTAL SERVICE**  
Employer

**OC: 02/24/08 R: 01  
Claimant: Appellant (1)**

Section 96.6-2 - Prior Adjudication

**STATEMENT OF THE CASE:**

Beverly D. Schramm (claimant) appealed a representative's June 27, 2008 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with the United States Postal Service because of a conclusion that the separation had been previously adjudicated and that adjudication had become final. Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on August 15, 2008. The claimant participated in the hearing and was represented by Raymond Aranza, attorney at law. Doug Lambert appeared on the employer's behalf. During the hearing, Claimant's Exhibit A was entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is there a prior determination on the merits of this appeal that is binding on the parties and the outcome of this appeal?

**FINDINGS OF FACT:**

The claimant's last day of active work for the employer was February 26, 2008. She established a claim for unemployment insurance benefits effective February 24, 2008. An Agency representative issued a decision dated March 14, 2008 (reference 01). That decision concluded that there was a February 27, 2008 separation but that the separation was not disqualifying so that the claimant was eligible for benefits. The employer appealed that decision and a hearing was held on that appeal under 08A-UCFE-00005-HT on April 8 and April 22, 2008. Both the claimant and the employer participated in that proceeding. On April 23, 2008 the administrative law judge in that matter issued a decision concluding that the February 27, 2008 separation was due to misconduct on the part of the claimant and that she was therefore disqualified for benefits, and overpaid the benefits she had received to that point.

The claimant appealed that administrative law judge's decision to the Employment Appeal Board. On June 5 the Board issued its decision concluding that the claimant's appeal to the Board was not timely and that the prior administrative law judge's decision was therefore final. No appeal was made to a district court of the Board's decision and it has now become final.

Subsequent to the Board's decision, the claimant reopened her claim effective June 15, 2008 because of additional negotiations between the parties. The representative's decision in this case was issued in response to the reopening of her claim. A settlement of various disputes between the parties was entered into with a final approval date of August 5, 2008. As part of that settlement, the separation between the parties was recharacterized from a discharge to a voluntary quit. However, the claimant did no additional work for the employer after February 26, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

If a prior determination has been made on the same issue and the adversely affected party fails to make a timely appeal, the decision on that issue has become final and is not subject to further review, and will be binding on the parties in related proceedings. Iowa Code § 96.6-2.

The Iowa court has declared that there is a mandatory duty to file appeals within the time allotted by statute, and that the administrative law judge has no authority to change a decision if a timely appeal is not filed. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979). The claimant did not properly appeal to district court the Board decision that the claimant had failed to timely appeal and that the April 23, 2008 administrative law judge's decision in 08A-UCFE-00005-HT was final. Therefore, the Board's June 5, 2008 decision is also final.

There has been no new separation from employment. The mere fact that the parties have subsequently reached an agreement in which they mutually agree to recharacterize the separation does not change the fact that the prior determination on the separation in this case has become final.

The administrative law judge lacks jurisdiction to make a new determination with respect to the nature of the separation, regardless of whether the merits of the appeal would be valid. See, Beardslee, supra; Franklin, supra; and Pepsi-Cola Bottling Company v. Employment Appeal Board, 465 N.W.2d 674 (Iowa App. 1990). The prior administrative law judge's decision on the separation has become final.

**DECISION:**

The representative's June 27, 2008 decision (reference 02) is affirmed. There has been a prior adjudication on the claimant's separation from employment which has become final. The claimant is not qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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