

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JENNIFER E EVERSOLL
1522 7TH ST NW
CLINTON IA 52732**

**DATA DIMENSIONS CORP
PO BOX 1465
JANESVILLE WI 53547**

**Appeal Number: 04A-UI-06165-DWT
OC 01/25/04 R 04
Claimant: Respondent (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-4 – Previously Adjudicated

STATEMENT OF THE CASE:

Data Dimensions Corporation (employer) appealed a representative's May 27, 2004 decision (reference 02) that concluded Jennifer E. Eversoll (claimant) is eligible to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant was not working as many hours as she had been working during her base period. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 28, 2004. The claimant participated in the hearing. Jean Stefano appeared on the employer's behalf. 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.

ISSUES:

Has the claimant's ability and availability for work been previously adjudicated?

Is the claimant eligible to receive unemployment insurance benefits as of April 25, 2004?

Is the employer's account subject to charge?

FINDINGS OF FACT:

The employer appealed a representative's March 2, 2004 decision (reference 01) that concluded the claimant was eligible to receive unemployment insurance benefits because she was able to and available for work. A hearing was scheduled on March 24, 2004. On April 1, 2004, the administrative law judge who conducted the March 24 hearing issued a written decision affirming the representative's March 2, 2004 decision that the claimant was eligible to receive unemployment insurance benefits, and that the employer's account could be charged for benefits paid to the claimant.

The parties agreed the facts were the same and had not changed since the representative's March 2 decisions. The employer had merely responded to another notice of claim that was prompted when the claimant reopened her claim during the week of April 25, 2004. The May 27 decision was identical to the March 2 decision that an administrative law judge affirmed on April 2, 2004.

REASONING AND CONCLUSIONS OF LAW:

A finding of fact, conclusions of law, or a final order made by an administrative law judge is binding upon the parties for unemployment insurance purposes. Iowa Code §96.6-4. The April 1 decision issued by an administrative law judge is binding on the claimant and employer unless there are new facts. The facts considered in the April 1 administrative law judge's decision and the representative's May 27 decision are the same. Nothing has changed. Since the issue was addressed in the April 1 decision, the issue addressed in the representative's May 27 decision has been previously adjudicated. As a result, the representative had no legal authority to make another decision on May 27. The issue has been previously adjudicated. Therefore, a representative had no legal authority to issue another decision unless the facts were different, which was not the case. Therefore, the claimant remains eligible to receive unemployment insurance benefits as of April 25, 2004, provided she meets all other eligibility requirements.

DECISION:

The representative's May 27, 2004 decision (reference 01) is modified, but the modification has no legal consequence. The issue of whether the claimant is eligible to receive benefits because she is working on an as-needed basis was addressed in a representative's February 2, 2004 decision and affirmed in an administrative law judge's April 1 decision. Since the facts have not changed, the Claims Section had no legal authority to address this issue in a May 27, 2004 decision. This issue has been previously addressed or adjudicated. Until the facts in the case have changed, the issue of whether the claimant is eligible to receive benefits because she is working as an on-call employee has been adjudicated and is considered the final decision in this matter.

dlw/kjf