

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

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Appeal Number: 04A-UI-07685-SWT
OC: 12/14/03 R: 01
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 is 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 96.6-2 - Timeliness of Appeal and Finality of Decision

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 6, 2004, reference 04, that concluded a decision on the claimant's separation from employment on December 15, 2003, was made on a prior claim and remained in affect. A telephone hearing was held on August 10, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer. The claimant agreed that a decision could be made based on the information in the administrative file.

FINDINGS OF FACT:

An unemployment insurance decision was mailed to the employer's last known address of record on January 22, 2004. The decision concluded the claimant's discharge was not for work-connected misconduct. The decision stated the decision was final unless a written appeal

was postmarked or received by the Appeals Section by February 1, 2004. The employer received the decision within the ten days and was allowed to appeal it, but never appealed it before the appeal deadline.

The claimant filed an additional claim for unemployment insurance benefits with an effective date of May 30, 2004. The employer protested the additional claim, and the Agency on July 6, 2004, mailed a decision that stated a decision on the claimant's separation from employment on December 15, 2003, was made on a prior claim and remained in affect. The employer appealed that decision on July 16, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the unemployment insurance decision dated January 22, 2004, that concluded the claimant was qualified to receive benefits based on her separation from employment became final, which prevents the parties from adjudicating the issue again.

Iowa Code Section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and become final in the absence of a timely appeal. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979); Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979).

The employer never appealed the decision dated January 22, 2004, within the 10 days provided by law and the decision became final. The employer does not receive another chance to contest the claimant's qualification based on the same separation from employment simply because the claimant filed an additional claim for benefits.

DECISION:

The unemployment insurance decision dated July 6, 2004, reference 04, is affirmed. A decision on the claimant's separation from employment on December 15, 2003, was made on a prior claim and remains in affect. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

saw/kjf