

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

APRIL A WESOLOWSKI
Claimant

APPEAL NO. 09A-UI-09789-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINK SNACKS INC
Employer

OC: 06/21/09
Claimant: Appellant (1)

871 IAC 24.28(6) – Prior Adjudication

STATEMENT OF THE CASE:

April A. Wesolowski filed a timely appeal from an unemployment insurance decision dated July 1, 2009, reference 01, that denied benefits to her upon a finding that a decision on her separation from employment on December 10, 2008 had been made in a prior benefit year. After due notice was issued, a telephone hearing was held July 20, 2009 with Ms. Wesolowski participating. Human Resources Manager Marty Moore participated for the employer, Link Snacks, Inc. Exhibit D-1 was admitted into evidence.

ISSUE:

Was the claimant's separation from employment on December 10, 2008 adjudicated in a prior benefit year?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: April A. Wesolowski established a benefit year effective June 22, 2008. On February 3, 2009 the Agency issued a fact-finding decision concerning her separation from employment with Link Snacks, Inc. That decision became final when the claimant did not file an appeal within ten days.

Ms. Wesolowski opened a new benefit year effective June 21, 2009. The Agency declined to conduct another fact-finding interview on the December 10, 2008 separation because it had already done so.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Wesolowski's separation from employment with Link Snacks, Inc. should be adjudicated at this time. It should not.

A provision of the Iowa Administrative Code found at 871 IAC 24.28(6) states that if the Agency has adjudicated a separation from employment in a prior benefit year and that adjudication has become final, the Agency will not reopen the issue to consider a second time the unemployment insurance consequences of the separation. The evidence here persuades the administrative law judge that the December 10, 2008 separation from employment was first adjudicated in a fact-finding decision dated February 3, 2009. The companion decision rules that the February 3, 2009 decision has become final. Therefore, it shall not be adjudicated a second time.

DECISION:

The unemployment insurance decision dated July 1, 2009, reference 01, is affirmed. The claimant's separation from employment has resulted in a disqualifying decision that has become final. Benefits are withheld until the claimant has worked in and has been paid wages for insured equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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