

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCY HIGGINS

Claimant

APPEAL NO. 12A-UI-01417-WT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BREMER COUNTY AUDITOR

Employer

OC: 12/25/11

Claimant: Respondent (1)

871 IAC 24.28(6) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Employer filed an appeal from a fact-finding decision dated February 3, 2012, reference 03, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 2, 2012. Claimant participated personally. Employer participated by Shelley Wolf. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether the claim was previously adjudicated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant was dismissed from work on December 29, 2010.

This matter was adjudicated in a decision dated January 13, 2011. The employer did not protest the claim.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.28(6) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(6) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

In this matter, the evidence has established that the claim was previously adjudicated by decision. The bureau is without authority to rehear this matter, as a decision was issued on the merits. The issue cannot be adjudicated a second time.

The employer appealed because it had been informed by staff at an Iowa Workforce Development office that it should not be charged and that the claimant's new employer should be charged. This was inaccurate advice. The claimant did not work enough to commence a new base period, but she did earn in excess of \$250.00. Therefore, the only claim the claimant could make was to file on a second benefit year of her 2010 claim. Had claimant established a new base period, the outcome would be different.

It should be noted that the employer's position is sympathetic. Employer is a reimbursable employer who already paid out significant unemployment benefits in 2011. The employer reasonably believed it had completed all payments. There is nothing, however, in Iowa law, which allows the undersigned to waive charges to an employer in these circumstances.

DECISION:

The representative's decision dated February 3, 2012, reference 03, is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/kjw