

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTINA M MESSERLY
Claimant

APPEAL NO. 10A-UI-15639-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OZARK AUTOMOTIVE DISTRIBUTORS INC
Employer

OC: 09/12/10
Claimant: Respondent (1)

Section 96.6(3) & (4) – Prior Adjudication

STATEMENT OF THE CASE:

The employer filed an appeal from the November 4, 2010, reference 02, decision that allowed benefits, that indicated employer's account could be assessed, that indicated a decision regarding the separation had been made on a prior claim, and that the prior decision remains in effect. After due notice was issued, a hearing was held by telephone conference call on January 19, 2011. Claimant participated. Whitney Smith represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 10A-UI-15638-JTT, and the administrative law judge hereby takes official notice of the decision entered in this matter.

ISSUE:

Whether the separation from the employment has been previously adjudicated and whether that adjudication continues to bind the parties.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant separated from the employment on August 25, 2009, at the end of an approved leave of absence. On October 14, 2009, a Workforce Development representative entered a reference 01 decision that allowed benefits in connection with the August 25, 2009 separation. The decision also indicated the employer's account could be charged. The decision was entered in connection with a claim year that started September 13, 2009. The October 14, 2009, reference 01, decision became a final Agency decision on October 25, 2009, after the employer failed to file a timely appeal from the decision. The employer filed an appeal on November 11, 2010, which appeal was deemed untimely in so far as it concerned the October 14, 2009, reference 01, decision. See Appeal Number 10A-UI-15638-JTT.

The claimant established a new original claim for benefits that was effective September 12, 2010. On November 4, 2010, a Workforce Development representative entered a reference 02 decision that allowed benefits and that indicated the employer's account could be assessed. The November 4, 2010, reference 02, decision concerned the same August 25, 2009 separation that was adjudicated by the October 14, 2009, reference 01, decision.

REASONING AND CONCLUSIONS OF LAW:

Unless appealed in a timely manner and reversed on appeal, a finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of Iowa Workforce Development, administrative law judge, or the employment appeal board, is binding upon the parties in proceedings brought under this chapter. See Iowa Code section 96.6(3) and (4).

The evidence in the record establishes that the October 14, 2009, reference 01, decision that allowed benefits and that indicated the employer's account could be assessed for benefits in connection with the August 25, 2009 separation continues to bind the parties in the new claim year. In other words, the separation and its impact on the claimant's eligibility for benefits and the employer's liability for benefits has been previously adjudicated and cannot be re-adjudicated by the parties just because a new benefit year has started.

DECISION:

The Agency representative's November 4, 2010, reference 02, decision is affirmed. The August 25, 2009 separation has been previously adjudicated and the prior adjudication continues to bind the parties in the new claim year. The claimant is eligible for benefits, provided she is otherwise eligible, and the employer's account may be assessed for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw