

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES D SEARS**

Claimant

**APPEAL NO: 07A-UI-05878-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELECTROLUX HOME PRODUCTS INC**

Employer

**OC: 04/29/07 R: 02  
Claimant: Respondent (5/R)**

Section 96.6-2 - Prior Adjudication

**STATEMENT OF THE CASE:**

Electrolux Home Products, Inc. (employer) appealed a representative's May 31, 2007 decision (reference 01) that concluded James D. Sears (claimant) not qualified to receive unemployment insurance benefits after a separation from employment. Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on June 28, 2007. The claimant participated in the hearing. Mallory Russell 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.

**ISSUE:**

Is there a prior determination on the merits of this appeal that is binding on the parties and the outcome of this appeal?

**FINDINGS OF FACT:**

The claimant established a claim for unemployment insurance benefits effective April 30, 2007. He filed weekly claims for the four-week period ending May 27, 2006. An Agency representative issued a decision dated September 6, 2006 (reference 01). That decision concluded that there had been a May 31, 2006 non-disqualifying discharge from employment so that the claimant was eligible for benefits and the employer's account might be subject to charge. The employer appealed that decision.

An appeal hearing was conducted under 06A-UI-09237-H2T; the administrative law judge issued a decision on October 17, 2006 which concluded that that claimant had been off work for excused reasons beginning June 1, 2006 and that there was a July 10, 2006 non-disqualifying discharge from employment resulting in the claimant being eligible for benefits and the employer's account being subject to charge. The employer determined not to appeal that decision to the Employment Appeal Board and it has now become final.

The claimant's original claim year expired April 29, 2007. He therefore established a second claim year effective that date. As a base-period employer, the employer was notified of that claim and filed a protest. As a result of that protest, another representative's decision was

issued dated May 31, 2007 (reference 01), the subject of this appeal. That decision used the May 31, 2006 separation date used in the September 9, 2006 (reference 01) decision, rather than the July 10, 2006 separation date as determined in the administrative law judge's October 17, 2006 decision.

The claimant has not worked for any other employer since working for the employer. Agency records indicate payment of \$1,271.00 from the employer to the claimant in the third quarter of 2006, although it cannot be determined from the information available to this administrative law judge what that payment represents as to whether it is actual wages or some other type of payment.

#### **REASONING AND CONCLUSIONS OF LAW:**

If a prior determination has been made on the same issue and the adversely affected party fails to make a timely appeal of a representative's decision, the decision on that issue has become final and is not subject to further review, and will be binding on the parties in related proceedings.

Iowa Code § 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 administrative law judge's decision issued on October 17, 2006 (06A-UI-09237-H2T) was not appealed and has become final regarding the separation from employment between the claimant and the employer.

An issue as to whether the claimant has properly requalified for a second benefit year arose as a consequence of the hearing. From the prior determination and the prior claim year benefit record, it appears that while the separation itself did not occur until July 10, 2006, the claimant was off work from at least June 1, 2006 for excusable reasons, but had also been off work for the four weeks prior to July 1 since the establishment of his claim year effective April 30, 2006 for reasons which cannot be determined from the information available to the administrative law judge. From this information, it is not clear to the administrative law judge how the claimant could have earned any wages in the third quarter 2006 or could have earned the necessary \$250.00 in wages after April 30, 2006 in order to qualify for a second benefit year under Iowa Code § 96.4-4. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

**DECISION:**

The representative's May 31, 2007 decision (reference 01) is affirmed as modified with no effect on the parties. The separation from employment which in fact occurred July 10, 2006 has been previously adjudicated and that adjudication has become final. The claimant is eligible to receive unemployment insurance benefits, if he is otherwise qualified. The matter is remanded to the Claims Section for investigation and determination of the second benefit year qualification issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs